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The Liquor Problem.

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HOUGHTON, MIFFLIN AND COMPANY,

BOSTON AND NEW YORK.

THE LIQUOR PROBLEM

IN ITS

LEGISLATIVE ASPECTS

BY

FREDERIC H. WINES AND JOHN KOREN

AN INVESTIGATION MADE
UNDER THE DIRECTION OF

CHARLES W. ELIOT, SETH LOW
AND JAMES C. CARTER

SUB-COMMITTEE OF THE COMMITTEE OF FIFTY TO
INVESTIGATE THE LIQUOR
PROBLEM

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NOTE TO SECOND EDITION.

When the first edition of this work was published, the Raines law in New York had been for a short time in operation, but amendments were pending. Sufficient time has elapsed since the revision of the law to justify a full examination of its working, and accordingly a new chapter has been added in this second edition, with the title, "The Operation of the New York Liquor Tax Law." The opportunity offered by a reissue has been taken also to bring down to date the observations on the South Carolina Dispensary System, Massachusetts Liquor Legislation, and Pennsylvania Liquor Legislation. Brief additions therefore will be found on pp. 180*a*, 180*b*, 230, and 291.

Boston, August 2, 1898.

PREFACE.

For several years beginning in 1889, a group of fifteen gentlemen, who came to be known as the Sociological Group, prepared papers on subjects in sociology, which were published in "The Century Magazine" and "The Forum." These articles were written by single members of the group, but were criticised before their publication by other members. Among the subjects dealt with were: A Programme for Labor Reform, by Professor Richard T. Ely; The Social Problem of Church Unity, by the Rev. Dr. Charles W. Shields; Pensions and Socialism, by Professor William M. Sloane; Government of Cities in the United States, by President Seth Low.

Meetings of the group were held from time to time in New York city, at which there was a useful interchange of opinion on various social topics. In 1893 these gentlemen decided to enlarge the number of the group to fifty, and to concentrate their attention on the liquor problem in the United States. The selection of the new members was made chiefly from Eastern cities, in order that it might be possible to procure large meetings of the committee in New York city twice a year; but there were, nevertheless, a few members from distant places, like Milwaukee and St. Louis. The members of the committee bore their own traveling expenses; but a few thousand dollars were raised by private subscription, mostly in New York and Boston, to defray the expenses of their investigations.

The present members of the Committee of Fifty are Dr. Felix Adler, Bishop E. G. Andrews, Dr. J. S. Billings, Professor C. A. Briggs, Dr. G. Alder Blumer, Z. R. Brockway, Esq., James C. Carter, Esq., William Bayard

Cutting, Esq., William E. Dodge, Esq., Rev. Father A. P. Doyle, Rev. Father Walter Elliot, Dr. E. R. L. Gould, Rev. Dr. W. R. Huntington, President Seth Low, Rt. Rev. H. C. Potter, Rev. Dr. W. I. Rainsford, Jacob H. Schiff, Esq., of New York; Professor H. P. Bowditch, J. G. Brooks, Esq., Rev. Dr. Thomas Conaty, Rev. Dr. S. W. Dike, President Charles W. Eliot, Dr. Edward M. Hartwell, Professor F. G. Peabody, Gen. Francis A. Walker,[1] of Massachusetts; Professor W. O. Atwater, Professor R. H. Chittenden, Professor Henry W. Farnam, Jacob L. Greene, Esq., Professor J. J. McCook, Rev. Dr. T. T. Munger, Charles Dudley Warner, Esq., Hon. David A. Wells, of Connecticut; Professor C. W. Shields, Professor W. M. Sloane, of New Jersey; President James MacAlister, Robert C. Ogden, Esq., of Pennsylvania; C. J. Bonaparte, Esq., President D. C. Gilman, Dr. William H. Welch, of Maryland; Rev. Dr. Alexander Mackay-Smith, Hon. Carroll D. Wright, of Washington, D. C.; Rev. Dr. Washington Gladden, Professor J. F. Jones, of Ohio; Frederic H. Wines, Esq., of Illinois; Professor R. T. Ely, of Wisconsin; Hon. Henry Hitchcock, of Missouri; Rt. Rev. T. F. Gailor, of Tennessee; President William Preston Johnston, of Louisiana.

This committee, meeting in New York city on October 20, 1893, appointed four sub-committees on different aspects of the drink problem: one on the physiological aspects, one on the legislative aspects, one on the economic aspects, and one on the ethical aspects. The sub-committee on the physiological aspects of the problem began work almost at once by setting on foot several series of investigations concerning the effects of alcohol on the animal economy. The sub-committee on the ethical aspects of the problem thought it expedient to delay their work till the other sub-committees had made some progress in their respective fields. The sub-committee on the economic aspects waited until it should

[1] Died January 5, 1897.

be determined what parts of numerous desirable investigations should be undertaken by the National Bureau of Labor at Washington. The fields to be occupied by the National Bureau having been determined toward the close of the year 1895, the sub-committee on the economic aspects of the drink problem then began the prosecution of several inquiries.

The first Report of the Sub-Committee on the Legislative Aspects of the Liquor Problem is presented in this volume; and it is published under the authority of the whole Committee of Fifty, as explained in the following prefatory note by the Secretary, Dr. Francis G. Peabody: —

"This Committee, made up of persons representing different communities, occupations, and opinions, is engaged in the study of the Liquor Problem in the hope of securing a body of facts which may serve as a basis for intelligent public and private action. It is the purpose of the Committee to collect and collate impartially all accessible facts which bear upon the problem, and it is their hope to secure for the evidence thus accumulated a measure of confidence on the part of the community which is not accorded to partisan statements.

"The investigations of the Committee are carried on under the direction of four Sub-Committees, which deal respectively with the Physiological, Legislative, Ethical, and Economical aspects of the question.

"By vote of the Committee of Fifty, January 10, 1896, reports made by its Sub-Committees to the whole body may be published, by authority of the Executive Committee, as contributions to the general inquiry; but to all such publications is to be prefixed a statement that reports of Sub-Committees are to be regarded as preliminary in their nature, and only contributory of facts upon which the general discussion may in the future be undertaken by the Committee as a whole."

In order to bring the present volume within a suitable compass it has been necessary to condense somewhat the reports of Messrs. Wines and Koren. This condensation has caused the omission in some instances of the detailed evidence on which general statements are based; but nothing has been added to their reports, and no expression of their opinions has been even in the slightest degree modified. This inevitable reduction, however, diminishes in some instances their responsibility for the form in which the facts are presented.

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THE LIQUOR PROBLEM.

INTRODUCTION.

THE Sub-committee on the Legislative Aspects of the Drink Problem received from the Committee of Fifty appropriations of sixty-five hundred dollars. In April, 1894, the sub-committee engaged Dr. Frederic H. Wines, of Springfield, Illinois, and Mr. John Koren, of Boston, Massachusetts, to investigate the working of the liquor legislation in several States of the Union in which that legislation, or its history, has been characteristic or especially instructive.

Mr. Koren began work on the first day of May, 1894, in the State of Maine, where prohibitory legislation has existed since 1851. He spent three months in Maine, and then studied for three months the working of the local-option law in Massachusetts, — chiefly in Boston and North Adams, the latter place being a large town with a considerable proportion of operatives in its population. From Massachusetts he proceeded to Pennsylvania, and gave three months to a study of the working of the Pennsylvania License Law, — chiefly in Philadelphia. Next, he studied the working of the Dispensary Law in South Carolina during February, March, and April, 1895. He then gave three months to a careful revision of his four reports. Mr. Koren, therefore, worked continuously for the sub-committee from May 1, 1894, to August 1, 1895. Lastly, he devoted six weeks in September and October, 1895, to

an extension of his field work in Pennsylvania, particularly in Pittsburgh, Wilkes Barre, and Reading.

Dr. Wines began his studies for the sub-committee about the first of August, 1894; and his first work was an elaborate investigation of the working of the Missouri law in the city of St. Louis. He then studied the history and operation of the Iowa legislation, and in April, 1895, presented to the sub-committee a careful report on that remarkable legislation. He next went to Ohio, and investigated the working of the so-called Mulct Law, under which no licenses are issued, but a tax is levied on every liquor-seller. Finally, in the summer of 1895, he prepared a report on the working of the liquor legislation in Indiana. He gave to these investigations nine months of his time between August 1, 1894, and September 1, 1895.

These investigations cover eight different kinds of liquor legislation. They are not complete statistical inquiries, for the reason that it is impossible, with any resources at the command of the Committee of Fifty, to obtain satisfactory statistics on this subject for any State of the Union. It would require the authority of the general government and an immense expenditure to make an exhaustive statistical inquiry on the subject of the consumption of alcoholic drinks; and it is very doubtful if even the national government could obtain all the important facts on this most difficult topic. The considerable consumption of alcohol for medicinal and industrial purposes masks the consumption for drinking purposes. The amount of alcohol produced in the country gives, of course, no clew to the amount consumed as drink in any single State. The internal revenue laws of the United States and the freedom of interstate commerce complicate the whole situation. Neither have the researches of Dr. Wines and Mr. Koren resulted in complete statistical statements of the number of arrests for drunkenness, or for drunkenness and disorderly conduct, or

of the number of crimes attributable to alcohol. Indeed, one of the results of their investigations is that no secure conclusions can be based on any such statistics now in existence, so much are the accessible statistics affected by temporary, local, and shifting conditions. Nevertheless, these reports give a trustworthy account of the legislation in each State dealt with, and of the efforts made in the several States to enforce the laws enacted; and they give some indications of the success or non-success in promoting temperance of the various kinds of legislation described. They inevitably deal, also, with the social and political effects of the various sorts of liquor legislation. Within these limits, they are believed by the sub-committee to be accurate and impartial.

The reports relate to communities which differ widely in character. Some relate to compact and some to scattered populations; some to people most of whom are native-born, and some to communities in which there is a large admixture of foreign-born persons. The principal occupations in the States examined differ widely. Boston, Philadelphia, and St. Louis contain chiefly a manufacturing and trading population, while the population of South Carolina and Iowa is in the main agricultural.

The difficulties in the way of researches of this kind are enormous. In matters which affect private character, truthful reports are proverbially hard to obtain. The accessible statistics are incomplete or inaccurate, or both. The effects of intemperance in promoting vice and crime are often mixed with the effects of many other causes, such as unhealthy occupations, bad lodgings, poor food, and inherited disabilities; and it is very difficult to disentangle intemperance as a cause from other causes of vice, crime, and pauperism. At every point connected with these investigations the studious observer encounters an intense

partisanship, which blinds the eyes of witnesses, and obscures the judgment of writers and speakers on the subject.

The reports deal with some communities in which the local sentiment has been in favor of the enforcement of restrictive laws, and with others in which the sentiment has been adverse to such enforcement. On the whole, they embrace a sufficient variety of legislative enactments, and a sufficient variety of experience with these enactments, in communities of various quality, to make the conclusions to be drawn from them widely interesting and instructive. Taken together, they certainly present a vivid picture of the difficulties of such inquiries, and give effective warning against the easy acceptance of partial or partisan statements on the subject.

From the eight reports thus obtained, the sub-committee derive the following statement of results and inferences, which omit all reference to similar legislation and experience in other States, and make no pretension to any exhaustive or universal character. It is evident that methods which succeed in one place do not necessarily succeed in another. Moreover, none of the eight reports deals with the question under European or cosmopolitan conditions.

The results of the investigation and the inferences from it which the sub-committee laid before the Committee of Fifty include a consideration of prohibition, its successes, its failures, its concomitant evils, and its disputed effects; local option; the systems of licenses; licensing authorities; restrictions on the sale of liquors; druggists' licenses; and the effect of liquor legislation on politics.

PROHIBITION.

Prohibitory legislation has succeeded in abolishing and preventing the manufacture on a large scale of distilled and malt liquors within the areas covered by it. In districts

where public sentiment has been strongly in its favor it has made it hard to obtain intoxicants, thereby removing temptation from the young and from persons disposed to alcoholic excesses. In pursuing its main object, — which is to make the manufacture and sale of intoxicants, first, impossible, or, secondly, disreputable if possible, — it has incidentally promoted the invention and adoption of many useful restrictions on the liquor traffic.

But prohibitory legislation has failed to exclude intoxicants completely even from districts where public sentiment has been favorable. In districts where public sentiment has been adverse or strongly divided, the traffic in alcoholic beverages has been sometimes repressed or harassed, but never exterminated or rendered unprofitable. In Maine and Iowa there have always been counties and municipalities in complete and successful rebellion against the law. The incidental difficulties created by the United States revenue laws, the industrial and medicinal demand for alcohol, and the freedom of interstate commerce have never been overcome. Prohibition has, of course, failed to subdue the drinking passion, which will forever prompt resistance to all restrictive legislation.

There have been concomitant evils of prohibitory legislation. The efforts to enforce it during forty years past have had some unlooked-for effects on public respect for courts, judicial procedure, oaths, and law in general, and for officers of the law, legislators, and public servants. The public have seen law defied, a whole generation of habitual law-breakers schooled in evasion and shamelessness, courts ineffective through fluctuations of policy, delays, perjuries, negligences, and other miscarriages of justice, officers of the law double-faced and mercenary, legislators timid and insincere, candidates for office hypocritical and truckling, and office-holders unfaithful to pledges and to reasonable public expectation. Through an agitation which has always

had a moral end, these immoralities have been developed and made conspicuous. The liquor traffic, being very profitable, has been able, when attacked by prohibitory legislation, to pay fines, bribes, hush-money, and assessments for political purposes to large amounts. This money has tended to corrupt the lower courts, the police administration, political organizations, and even the electorate itself. Wherever the voting force of the liquor traffic and its allies is considerable, candidates for office and office-holders are tempted to serve a dangerous trade interest, which is often in antagonism to the public interest. Frequent yielding to this temptation causes general degeneration in public life, breeds contempt for the public service, and of course makes the service less desirable for upright men. Again, the sight of justices, constables, and informers enforcing a prohibitory law far enough to get from it the fines and fees which profit them, but not far enough to extinguish the traffic and so cut off the source of their profits, is demoralizing to society at large. All legislation intended to put restrictions on the liquor traffic, except perhaps the simple tax, is more or less liable to these objections; but the prohibitory legislation is the worst of all in these respects, because it stimulates to the utmost the resistance of the liquor-dealers and their supporters.

Of course there are disputed effects of efforts at prohibition. Whether it has or has not reduced the consumption of intoxicants and diminished drunkenness is a matter of opinion, and opinions differ widely. No demonstration on either of these points has been reached, or is now attainable, after more than forty years of observation and experience.

LOCAL OPTION.

Experience with prohibitory legislation has brought into clear relief the fact that sumptuary legislation which is not supported by local public sentiment is apt to prove locally impotent, or worse. On this fact are based the numerous

kinds of liquor legislation which may be grouped under the name of local option.

In the legislation of the eight States studied, five forms of local option occur: In Massachusetts, a vote is taken every year at the regular election in every city and town on the question, Shall licenses be granted? and the determination by the majority of voters lasts one year. In Missouri, a vote may be taken at any time (but not within sixty days of any state or municipal election) on demand of one tenth of the qualified electors, town or city voters having no county vote and *vice versâ*, and the vote being taken not oftener than once in four years; but in counties or municipalities which have voted for license, no saloon can be licensed unless the majority of the property-holders in the block or square in which the saloon is to be situated sign a petition that the license be issued. In South Carolina, every application for the position of county dispenser must be accompanied by a petition in favor of the applicant signed by a majority of the freeholders of the incorporated place in which the dispensary is to be situated; and more than one dispensary may be established for each county, but not against a majority vote (operative for two years) in the township in which the dispensary is to be placed. In Ohio, local prohibition is permitted, the vote being taken at a special election on the demand of one fourth of the qualified electors in any township. In Indiana (law of 1895), a majority of the legal voters in any township or ward of a city may remonstrate against licensing a specified applicant, and the remonstrance voids any license which may be issued to him within ten years.

The main advantage of local option is that the same public opinion which determines the question of license or no-license is at the back of all the local officials who administer the system decided on. The Missouri provisions seem to be the completest and justest of all. One year being too

short a period for a fair trial of either license or no-license, Massachusetts towns and cities have to guard themselves against a fickleness from which the law might protect them. Under local option, many persons who are not prohibitionists habitually vote for no-license in the place where they live, or where their business is carried on. Persons who object to public bars, although they use alcoholic drinks themselves, may also support a local no-license system. By forethought, such persons can get their own supplies from neighboring places where license prevails. If their supplies should be cut off, they might vote differently. There has been no spread of the no-license policy in Massachusetts cities and towns since 1881, except by the votes of towns and cities in the immediate vicinity of license towns and cities.

LICENSES.

The facts about licenses and the methods of granting them are among the most important parts of the results of this study. There is general agreement that licenses should not be granted for more than one year. The Massachusetts limitation of the number of licenses by the population (1 license to 1,000 inhabitants, except in Boston 1 to 500) has worked well, by reducing the number of saloons, and making the keepers more law-abiding; but the evidence does not justify the statement that it would work well everywhere. The Missouri restriction — no license within 500 feet of a public park — and the Massachusetts restriction — no license within 400 feet of a schoolhouse — are both commendable. Another Massachusetts provision, to the effect that the holder of a license to sell liquors to be drunk on the premises must also hold a license as an innholder or victualer, is well conceived; but the means of executing it have not been thoroughly worked out. Pennsylvania, outside of Philadelphia, licenses only taverns and restaurants to sell intoxicants for consumption on the premises.

County courts have been, and still are, common licensing authorities in the States reported on. Officials elected for short terms, like the mayor and aldermen of cities, make bad licensing authorities; for the reason that the liquor question thereby becomes a frequently recurring issue in municipal politics. A Massachusetts law of recent date provides for the appointment by the mayor of any city of three license commissioners, each to serve six years, one commissioner retiring every second year. This arrangement provides a tolerably stable and independent board, without violating the principle of local self-government.

Every licensing authority should have power to revoke a license promptly, and should always have discretion to withhold a license, no matter how complete may be the compliance of the applicant with all preliminary conditions.

The objections to using courts as licensing authorities are grave. In cities, licenses are large money-prizes, and whoever awards many of them year after year is more liable to the suspicion of yielding to improper influences than judges ordinarily are in the discharge of strictly judicial duties. Wherever the judgeships are elective offices, it is difficult for candidates to avoid the suspicion that they have given pledges to the liquor interest. Since judicial purity and reputation for purity are much more important than discreet and fair licensing, it would be wiser not to use courts as licensing authorities.

There are also grave inherent objections to the whole license system, when resting on the discretion of commissioners, which the experience of these eight States cannot be said to remove. No other element connected with a license does so much to throw the liquor traffic into politics. It compels the traffic to be in politics for self-protection. It makes of every licensing board a powerful political engine. A tax law avoids this result, and is so far an improvement. The Ohio law is a case in point.

Bonds are generally required of licensees. Experience has proved that wholesale dealers get control of the retailers by signing numerous bonds for them. This practice can be, and has been, prevented by legislation of various sorts, — as, for example, by enacting (Iowa, 1894) that no person shall sign more than one bond, or (Pennsylvania) that bondsmen shall not be engaged in the manufacture of spirituous or malt liquors. The appearance of office-holders and politicians on numerous bonds, as in Philadelphia, might be prevented by a law declaring that holders of elective offices shall not be accepted as bondsmen for licensees.

Before a license for a saloon can be issued, Massachusetts requires the consent of the owner of the building in which the saloon is to be, and the consent of the owners of property within twenty-five feet of the premises to be occupied by the saloon. Iowa requires the consent of all property-holders within fifty feet of saloon premises. The Missouri provision is a thorough one, and can be evaded only at considerable cost and risk. Known methods of evasion are building and selling tenements so as to increase the number of voters in the block, and dividing ordinary lots into many small lots held by different persons.

It has been a common practice to require every applicant for a license to file a certificate, signed by twelve or more respectable citizens, testifying to the applicant's citizenship and good character. This certificate is of some value to a careful licensing authority, but it may conceal the carelessness of an unconscientious authority. In connection with a tax law it might work well. In 1872–73, at a time when the Supreme Court of Iowa had declared local option unconstitutional, Iowa demanded that this certificate should be signed by the majority of the voters in the township, city, or ward for which the license was asked, — thus securing a kind of local option.

As a rule, the upper limit of license fees in cities and

large towns has by no means been reached. The examples of Missouri and St. Louis (combined fee), North Adams in Massachusetts, and Boston prove that the traffic can be made to yield much more revenue than has been supposed. In 1883 the principal fees were doubled in Boston without diminishing the number of applications. They were raised again in 1888. In St. Louis the traffic pays a state tax, a county tax, an ad valorem tax on all liquors received, and a municipal tax which sometime reaches $300 a month for a single saloon. When a license attaches to a place, and not to a person, the owner of the shop fixes the rent, not by the value of the building for any business, but by the special value of the license. That is a profit which the municipality might absorb in the license fee.

RESTRICTIONS ON THE SALE.

The most important question with regard to any form of liquor legislation is this: Is it adapted to secure the enforcement of the restrictions on the sale of intoxicants which experience has shown to be desirable, assuming that only those restrictions can be enforced which commend themselves to an enlightened and effective public sentiment? The restrictions which the experience of many years and many places has proved to be desirable are chiefly these: —

There should be no selling to minors, intoxicated persons, or habitual drunkards.

There should be no selling on Sundays, election days, or legal holidays in general, such as Christmas Day, Memorial Day, and the Fourth of July. Where, however, such a restriction is openly disregarded, as in St. Louis, it is injurious to have it in the law.

Saloons should not be allowed to become places of entertainment, and to this end they should not be allowed to provide musical instruments, billiard or pool tables, bowling alleys, cards, or dice.

Saloons should not be licensed in theatres or concert halls; and no boxing, wrestling, cock-fighting, or other exhibition should be allowed in saloons.

Every saloon should be wide open to public inspection from the highway, no screens or partitions being permitted.

There should be a limit to the hours of selling, and the shorter the hours the better. In the different States saloons close at various hours. Thus, in Maine cities in which saloons are openly maintained, the hour for closing is ten P. M., and in Massachusetts it is eleven P. M.; but the county dispensaries of South Carolina close at six P. M.

It has been found necessary to prevent by police regulation the display of obscene pictures in saloons, and the employment of women as bar-tenders, waitresses, singers, or actresses.

Most of the above restrictions can be executed in any place where there is a reasonably good police force, provided that public opinion accepts such restrictions as desirable. If public sentiment does not support them, they will be disregarded or evaded, as they are in St. Louis, although the Missouri law is a good one in respect to restrictions on licensees. The prohibition of Sunday selling is an old restriction in the United States (Indiana, 1816), and the more Sunday is converted into a public holiday the more important this restriction becomes, if public sentiment will sustain it.

All restrictions on the licensed saloons have a tendency to develop illicit selling; but much experience has proved that illicit selling cannot get a large development by the side of licensed selling, if the police administration be at all effective. It is only in regions where prohibition prevails that illicit selling assumes large proportions. In license cities, where the regulations forbid sales after ten or eleven o'clock on Saturday evening and sales on Sundays, the illicit traffic is most developed after hours on Saturday and on Sunday.

DRUGGISTS' LICENSES.

The selling of intoxicants by druggists has been a serious difficulty in the way of enforcing prohibitory laws. In Iowa, when the law of 1886 closed large numbers of saloons, the druggists were almost compelled to sell liquors, — at least to their own acquaintances and regular customers. In Maine, the sale by druggists has always been a favorite mode of evading the law. States which have insisted on a proper education of pharmacists, and maintained a state registry for pharmacists, have had an advantage, when the closing of saloons has brought a pressure on drug-stores to supply intoxicants; for the supervision of the State secures a higher class of men in the pharmacy business.

The checks on the selling of liquor by druggists are chiefly these: first, none but a registered pharmacist shall be intrusted with a license; secondly, no druggist shall sell in small quantities without a written prescription by a physician, and this physician must not be the druggist himself or one interested in the drug-store. The sale of liquor by druggists cannot be perfectly controlled, however, by either or both of these regulations.

LIQUOR CASES IN THE COURTS.

Under all sorts of liquor laws great difficulty has been found in getting the courts to deal effectively and promptly with liquor cases. Alike under the license law in Massachusetts and under the prohibition law in Maine, this difficulty has presented itself. In Maine, after more than forty years' experience, and after frequent amendment of the law of 1851 with the object of preventing delay in dealing with liquor cases, it is still easy to obtain a year's delay between the commission of a liquor offense and sentence therefor. In Massachusetts, so many cases were placed on file and nol pros'd that, in 1885, a law was

passed against the improper canceling of cases. This law checked the evil. In 1884, 78 per cent. of all the liquor cases were placed on file or nol pros'd; in 1885, 34 per cent., and in 1893 only 3.41 per cent. Wherever district attorneys and judges are elected by the people, this trouble is likely to be all the more serious. One consequence of the delays and miscarriages in liquor cases is that the legal proceedings in enforcing a liquor law become very costly in proportion to the number of sentences imposed.

Experience in various States has shown that the penalty of imprisonment prevents obtaining convictions in liquor cases. This penalty has been tried over and over again by ardent legislators, but in practice has never succeeded, — at least for first offenses. Fines have seemed to ordinary judges and juries sufficient penalties for liquor offenses. Laws with severe penalties have often been passed, and courts have often been deprived of all choice between fine and imprisonment; but in practice such enactments have proved less effective than milder ones.

A wise discrimination is made in some States between the fines for selling liquors in counties or municipalities which have voted for no-license and the fines for selling without a license in counties or municipalities which have voted for license. The first offense requires the heavier fine. In Missouri, for an offense of the first sort the fine is from $300 to $1,000; for an offense of the second sort, from $40 to $200. In States where a license system prevails throughout, the fine for selling without a license needs to be high. Thus, in Pennsylvania, the fine for this offense is from $500 to $5,000. It is, of course, important that the fine for selling without a license should be decidedly higher than the annual cost of a license.

It has been thought necessary to stimulate the enforcement of liquor laws by offering large rewards to informers. Thus, in Ohio, half the fine imposed goes to the informer,

whenever a house of ill-fame is convicted of selling liquor. In South Carolina, twenty cents on every gallon of confiscated liquor is paid to the informer, and any sheriff or trial justice who seizes contraband liquors is paid half their value. Laws like these excite intense animosities, and necessitate other laws for the protection of informers. They have been effective, however, in some instances.

TRANSPORTATION OF LIQUOR.

The subject of the transportation of liquor into or within a State has been a very difficult one for legislators in every State which has tried the policy of prohibition, or of local no-license, or of state monopoly. Maine has struggled for more than forty years with the problem of preventing the transportation of liquor intended for sale, but with very limited success. That State, however, presents peculiar difficulties; for it has a much-indented coast and several navigable rivers, so that many of its principal towns and cities are accessible by water as well as by rail. The most minute and painstaking legislation has failed to attain the object of the prohibitionists. In South Carolina the legislature has been more successful in defending the state monopoly. The lines of transportation are comparatively few. Severe penalties have been enacted against the transportation of contraband liquor; arbitrary and vexatious powers have been given to sheriffs, constables, and policemen; and the activity of the local police has been stimulated by a provision that negligent municipalities may be deprived of their share of the profits of the state dispensary. Legislation of this sort intensifies political dissensions, incites to social strife, and abridges the public sense of self-respecting liberty. In States where local option prevails, transportation by express between license communities and no-license communities is practically unimpeded.

ARRESTS FOR DRUNKENNESS.

Dr. Wines and Mr. Koren both dwell at various points on the great difficulty of drawing useful inferences from tables of arrests for drunkenness during a series of years. The statistics are often imperfect; or the tables have been constructed on different principles in different years; or the police administration in the same city has changed its methods during the period of tabulation; or the drunk law has been altered; or the policy of liquor-sellers in regard to protecting intoxicated persons from arrest has been different at different periods. In spite of these difficulties, the statistics of arrests for drunkenness may sometimes afford satisfactory evidence concerning the working of the prevailing liquor legislation, although the precise cause of the increase or decrease of arrests may remain in doubt. Thus, in South Carolina, diminution of the number of arrests was an undoubted effect of the Dispensary Law; but it is not sure whether the diminution of public drunkenness was due to the early hour of closing (six P. M.), or to the fact that no drinking on the premises was allowed in the state dispensaries, or to the great reduction in the total number of liquor-shops in the State. In Massachusetts, an important change in the drunk law made in 1891 caused an increase of arrests, but a decrease of the number held for trial. In Philadelphia, the percentage of arrests for intoxication and vagrancy to all arrests declined after the enactment of the so-called "High-License Law;" but the probable explanation was that the keepers both of licensed saloons and of illicit shops protected drunken people. Another possible explanation was the inadequacy of the police force of Philadelphia. In St. Louis, where the saloons are numerous and unrestrained, public order is excellent, and arrests for drunkenness are relatively few; but this good condition is perhaps due as much to the

quality of the population as to the wisdom of the liquor legislation. The fact suggests the doubt whether the amount of drunkenness is anywhere proportionate to the number of saloons.

REMOVING THE MOTIVE OF PRIVATE PROFIT.

Iowa endeavored to carry out the philanthropic idea of removing from the liquor traffic the motive of private profit, so long ago as 1854, by legislation which appointed salaried county agents for the sale of liquor, the specific reason given for this legislation being that no private person might be pecuniarily interested in the sale of liquor. No State has thus far succeeded in carrying out this idea. The Dispensary Law of South Carolina proposed to create a complete state monopoly, with no private licensed traffic and no illicit traffic, and with all the profits of the business going to the public treasury. This law, if successfully carried into execution, would, it should seem, remove from the traffic the motive of private gain. The law has not been entirely successful in this respect, because the salaries of dispensers are made to depend on the amount of business done in their respective dispensaries; and it therefore becomes the private interest of the dispenser to enlarge his business as much as possible. There is at present no American legislation effective to this desirable end.

THEORETICAL DIFFICULTIES OF LIQUOR LEGISLATION.

The South Carolina Dispensary Law well illustrates the theoretical difficulties which beset liquor legislation. It proposes to maintain a highly profitable state monopoly of the sale of intoxicants. The revenue purpose is extremely offensive to prohibitionists; yet this motive appears plainly in the practical administration of the law, as well as in its theoretical purpose. Thus, for example, the state dispensers sell the cheapest kinds of distilled liquor, because

it is more profitable to sell that liquor than any other, the tastes and capacities of their customers being considered. Again, the law does not prohibit the manufacture of distilled, malt, or vinous liquors; but, on the contrary, in some respects encourages those manufactures within the State. The fundamental conception in the law is distinctly antagonistic to the theory that liquor-selling is sinful or unholy; for the State itself assumes the whole of that business and takes its profits. Although supported by prohibitionists at the time of its enactment, it flies in the face of all logical prohibitory theory. It has been enforced with a remarkable degree of success, but at great cost of political and social antagonisms.

The theory of the Ohio legislation is interesting in itself, and also because it suggested the present Iowa legislation. In Ohio, licensing is prohibited by the Constitution; but when a person is found selling liquor, he is required to pay a tax of $250, and to give a bond to observe certain restrictions on selling. The tax is far too low, particularly for city saloons; and the restrictions are not sufficiently numerous, and in many places are not enforced. Under the law as practically administered, saloons are much too numerous. On the other hand, this law prevents in some measure the evil effects of liquor legislation on politics. There are no licensing authorities, no political offices for conducting or supervising the liquor business, and only a moderate amount of liquor litigation. These are weighty recommendations of the law.

Although the Iowa legislation was originally suggested by the Ohio law, it has a very different theoretical basis. In Iowa, prohibition is the rule; but by paying a fee or tax, and submitting to numerous well-devised restrictions, a liquor-seller may procure exemption from the operation of the prohibitory law. Neither the Ohio theory nor the Iowa theory is satisfactory from the point of view of the

prohibitionists, any more than the theory of the South Carolina Dispensary Law. In the present state of legislation, different laws must be judged by their practical effects, and not by the ethical theory on which they rest.

PROMOTION OF TEMPERANCE BY LAW.

It cannot be positively affirmed that any one kind of liquor legislation has been more successful than another in promoting real temperance. Legislation as a cause of improvement can rarely be separated from other possible causes. The influences of race or nationality are apparently more important than legislation. That law is best which is best administered. Even when external improvements have undoubtedly been effected by new legislation, it often remains doubtful, or at least not demonstrable, whether or not the visible improvements have been accompanied by a diminution in the amount of drinking. Thus, a reduction in the number of saloons in proportion to the population undoubtedly promotes order, quiet, and outward decency; but it is not certain that the surviving saloons sell less liquor in total than the previous more numerous saloons. Again, it is often said that restrictions on drinking at public bars tend to increase drinking at home or in private, and there is probably truth in this allegation; but comparative statistics of public and private consumption are not attainable, so that it is impossible to hold a well-grounded opinion on this point. The wise course for the community at large is to strive after all external, visible improvements, even if it be impossible to prove that internal, fundamental improvement accompanies them.

LIQUOR LAWS IN POLITICS.

Almost every sort of liquor legislation creates some specific evil in politics. The evils which result from prohibitory legislation have been already mentioned. Under a

license system, there is great liability that the process of issuing licenses will breed some sort of political corruption. Whenever high-paid offices are created by liquor legislation, those offices become the objects of political contention. When a multitude of offices are created in the execution of liquor laws, they furnish the means of putting together a strong political machine. Just this has happened under the dispensary system in South Carolina, where a machine of great capacity for political purposes has been created in a short time, with the governor of the State as its engineer. The creation of this machine has intensified the bitter political divisions which caused the adoption of the Dispensary Law and made possible its enforcement. The activity of liquor-dealers' associations in municipal politics all over the United States is in one sense an effect of the numerous experiments in liquor legislation which have been in progress during the last thirty years. The traffic, being attacked by legislation, tries to protect itself by controlling municipal and state legislators.

The commonest issue over which contentions about local self-government have arisen has been the liquor issue. The prohibitionists early discovered that local police will not enforce a prohibitory law in places where public sentiment is opposed to the law. They therefore demanded that a state constabulary should be charged with the execution of that law. This issue has arisen in States whose legislation stops far short of prohibition. Thus, in Missouri, the governor appoints the excise commissioner who is the licensing authority in St. Louis; and in Massachusetts, where local option and high license prevail, the police commissioners of Boston are appointed by the governor. So far as enforcement of the laws goes, state-appointed officers or commissions have often brought about great improvements. In South Carolina, the Dispensary Act could not have been enforced had it not been that the

governor was empowered to appoint an unlimited number of constables to execute that one law. He was also empowered to organize at any moment a metropolitan police for any city in which the local officers neglected their duties in regard to the enforcement of the Dispensary Act. Nevertheless, violations of the principle of local self-government are always to be deplored, unless a municipality has exhibited an absolute incapacity to govern itself, or unless the violations are plainly based on another valuable principle, namely, that of voluntary coöperation for common ends whose scope transcends the limits of single municipalities.

There are, of course, other promising directions for efforts to promote temperance, such as the removal of the motive of private gain in stimulating the liquor traffic, the substitution of non-alcoholic drinks for intoxicants as refreshments or means of ready hospitality, and the giving of a preference in certain employments to total abstainers or to persons who never drink while on duty, particularly in those employments which have to do with the care or supervision of human beings, animals, and machines, or with transportation by land or sea; but since these interesting topics do not strictly belong to the present legislative aspects of the drink problem, the sub-committee do not dwell on them.

CHARLES W. ELIOT,
SETH LOW,
JAMES C. CARTER,
Sub-committee.

PROHIBITION IN MAINE AND ITS RESULTS.

During the first decades of the century, drinking was general among all classes of men in Maine, as elsewhere in New England. Workmen in the fields, in the woods, and in the towns were supplied with daily rations of spirits, — a half gill of rum-and-water at eleven o'clock in the forenoon, and again at four in the afternoon. No gathering of men or social function took place unaccompanied by more or less drinking. Every well-to-do family kept a stock of rum, gin, and brandy. Etiquette demanded that every visitor or traveler to be honored should be offered the social glass. Supplies of liquor could be obtained from any general trader, as well as from innholders.

The first temperance movement started somewhat suddenly, during the winter of 1826–27, in the small town of East Machias. This has been described as "unique and original, — a serious undertaking, by thoughtful, patriotic, and moral men, to arrest the ravages of intemperance." They worked "without a model or known exemplar." The movement was essentially religious in its origin. In East Machias it followed close upon a strong religious revival. A temperance society was formed, the primary article of its constitution being a pledge of total abstinence from distilled spirits as a beverage. Heavy malt liquors were at that time unknown; wine was a rare luxury, and its sacramental use removed it from the category of intoxicants, while its use at every "proper wedding" gave it almost an equal sanctity. The new asceticism in drink became a universal enthusiasm. Almost all respectable

persons took the pledge. Members of the church were *ex officio* members of the temperance society. To declare against the reform was equivalent to breaking with the church. The movement spread from place to place with the same results, chiefly through the agency of the churches. A radical change in the habits of the people followed. "Treating" ceased. Total abstinence became more the rule than the exception, and was even in places made a *conditio sine qua non* of social consideration. The daily ration of rum to laboring men was stopped. The early reformers did not hold the sellers of liquor alone responsible for the consequences resulting to the buyer and consumer. "The scorn of scorns was launched against the moderate drinker and sober men who opposed the reform."

The climax of this primitive temperance movement was reached, perhaps, before 1838. The "Maine Register" for 1831 (the official year-book of the State), in summarizing its effects, said that "the quantity of ardent spirits consumed in Maine has been reduced two thirds within three years." It declared, too, that the change in the moral aspect of society where temperance reformation had prevailed was "ample encouragement to the friends of human happiness to become the firm friends of temperance;" and it quoted and approved the opinion of a good observer, that "a complete change has taken place, not only in sentiment and feeling, but in action also."

Naturally such a powerful upheaval in society left some impress on legislation, although such a thing as prohibition had apparently not yet entered the minds of the reformers. What may be termed a rudimentary local-option law, which required a yea vote at the annual town meeting before license to retail dealers for consumption on the premises could be granted, was enacted in 1829. But the year 1834 marks a return to an ordinary license law. This year a petition signed by 140 women of the town of Brunswick

urged legislative action in the matter of "regulating or forbidding altogether" the sale of intoxicants. Yet not even the leaders of the so-called Washingtonian movement, which superseded the primitive one and reached Maine in 1840, were advocates of prohibition. In an address before the Washington Temperance Society in 1841, John T. Walton said: "Washingtonians are firm believers in the efficacy and power of moral suasion; this they believe to be the main lever; they hold that doctrine to be unsound which includes the principle of coercion, and therefore they cannot go hand in hand with those who cry out, 'Give us the strong arm of the law.'"

The question of prohibition by law, first proposed by General Appleton, was agitated after the famous political campaign of the Log Cabin and Hard Cider, when a backward step had been taken, and moderate tippling again became common in circles where it had been unknown. During the decade of 1840–50 it grew little by little into the dignity of a political issue, and such it has remained ever since. The first prohibitory law was enacted in 1846. This, however, did not touch manufacture. It empowered selectmen of towns to license a limited number of places (1 to 1,000 inhabitants, 2 to 3,000, and so on) to sell wines and strong liquors for medicinal and mechanical purposes only, and prohibited all other sale. There is no evidence to show that this law was ever rigidly enforced.

Meanwhile the prohibition issue had assumed important proportions, finding its main support not, however, among the Democrats. In 1849 the Democratic State Convention determined to kill off temperance and the opposing party at one stroke by ridicule. Accordingly the committee on resolutions inserted a plank in the platform calling for the absolute prohibition of the sale of intoxicating liquors. Of 600 members of the convention, all but two voted for it. At the next election the Democrats carried the State,

electing Hubbard governor; and a Democratic legislature passed what has since become widely known as the Maine Law. This measure was drafted by General Neal Dow, and signed by Governor Hubbard June 2, 1851. It prohibited the manufacture of intoxicants, and their sale except by agents authorized by towns to sell for medicinal and mechanical purposes only; provided for the punishment of first offenses by fines, subsequent offenses by fines and imprisonment; made clerks, servants, and agents equally guilty with their principals; and made it the duty of selectmen of towns and mayors or aldermen of cities to prosecute violation of the law upon the information of competent persons.

The legal machinery which had been created for the enforcement of the law not proving equal to the task, in 1853 further legislation was enacted, dealing principally with the form of procedure in case of violation, and elaborating the search, seizure, and forfeiture clauses; providing, among other things, for the issue of warrants to search for, seize, and destroy liquor upon the complaint of three persons.

This was the year of the celebrated "rum riot" in Portland. Political capital was made of the turbulent scenes following upon attempts to enforce the law, and the agitation culminated in 1856 in its repeal. Only the year previous the law had been entirely reënacted, its various provisions — especially the search, seizure, and forfeiture features — strengthened, in the hope of meeting every emergency. But the public mind was more concerned with the question whether it ought to remain on the statute book than with measures for its enforcement. It had now become a political football, as is shown by the election returns during this period. Of the whole vote cast for governor in 1852 (94,707), the anti-Maine Law candidate received 21,774. In 1853 the Democrats were victorious, the Maine

Law candidate having only 11,027 out of 83,627 votes cast. But in the following year the prohibitory candidate, who represented the Know-nothings also, was elected. His declaration, however, that the people favored the prohibitory law, does not appear to have been vindicated, for in 1856, as has been stated, it was repealed, and a limited license law substituted, which remained in force until 1858.

The question of reviving the prohibitory law was then submitted to popular vote and carried. The new measure adopted was even more elaborate than those preceding it. The various penalties for violations were nearly all increased. All houses used for illegal traffic were declared to be common nuisances, and the penalty for keeping such houses was fixed at a maximum fine of $1,000 or imprisonment for one year; while the lease of the seller, if a tenant, was made void. New forms of procedure for prosecution were also established.

Of the difficulties attending the attempts at enforcement, perhaps no more incontestable evidence can be found than the very amendments which it has been thought necessary to add from year to year. From prohibitionist ranks has come a continual cry for more law. Of the nearly fifty amendments enacted since 1858, we shall note briefly the most important.

During the Civil War, graver issues than the mending of liquor laws demanding the attention of the State, the question of enforcement fell into abeyance. One important act, however, was passed in 1862. This created the office of state liquor commissioner, appointed by the governor, with the duty of furnishing the various city and town agencies with pure unadulterated liquors, for sale for medicinal and mechanical purposes only. All liquor agents were obliged to purchase their stores from this official, and he was allowed a seven per cent. commission on sales. By an act of 1864, all malt beverages were classed under the head of

intoxicating liquors. The difficulty in securing honest and active local officials who could be implicitly trusted to execute the law early arose. Accordingly, in 1867, state constabulary were created. These officials were required, upon the application of ten or more voters in a district, to appoint deputies to execute the law, not more than ten in any county, or thirty for the whole State. They were to act only in case of failure or inability of the local officials to secure enforcement. In the same year the penalties for illegal selling were increased by imposing imprisonment, in addition to the fine, for from thirty days to three months on the first conviction, according to the offense. But the law had advanced farther than public sentiment, and it was deemed necessary in 1868 to modify the imprisonment clause, making the imposition of this penalty discretionary with the courts, and to repeal the act of the previous year providing for a state police in certain cases. By an act of 1870 it was provided that a search and seizure warrant might be taken out on the sworn complaint of only one instead of three persons as formerly required. Municipal officers were also required to institute proceedings against offenders upon a written notice of any violation of the law, under a penalty of from $20 to $50. The same year a measure was passed forbidding traveling agents to sell liquors and solicit orders. An act of 1872 provided for the appointment of liquor agents, at the option of any city or town, to sell for medicinal and mechanical purposes only, and derive no profit from the sales. Again a distrust of the efficiency of local officials manifested itself in an act of this year, which enjoined upon the sheriffs and their deputies to inquire with particular diligence into violations of the liquor laws by prompt entering of complaints, execution of warrants, or by furnishing the county attorney with the names of alleged offenders and of witnesses. In 1873 the term "nuisance" was made applicable to any house,

shop, or place where intoxicating liquors were sold for tippling purposes. In 1874 an act provided that no offense against the liquor laws should be barred by any period of time less than six years after the commission thereof.

In 1875 it was first sought to guard against the transportation of liquors into or from place to place within the State, with intent to sell the same in violation of the law, a penalty of $50 being fixed for each offense, with the liability of having the liquors seized while in transit. In 1877 the sale of liquor manufactured within the State was made punishable by a fine of $1,000 and imprisonment for two months. Cider, which had hitherto been exempt, was now classed with intoxicating liquors when kept for sale or for tippling purposes. The numerous amendments enacted from 1880 to 1884 seem to indicate an active opposition to the law and a lax public opinion, no less than a determined effort on the part of its advocates to enforce it. The fine for illegal selling was now raised to $100, and in default of payment the offender was to suffer imprisonment at hard labor for three months, and, for a subsequent conviction, six months at hard labor and a fine. But this act evidently, by its very severity, overshot the mark, for in 1883 the penalty was again reduced to a fine of $30 or sixty days' imprisonment; for subsequent offenses imprisonment in addition to fine being imposed. Common sellers were more severely dealt with.

The difficulty in securing efficient service from local officers was again encountered, and accordingly the governor was authorized to appoint, on the petition of thirty or more tax-payers in any county, two or more constables to enforce the laws, when shown that the county or local officers neglected their duty. The governor was further empowered to remove county attorneys for not attending promptly to liquor cases. The same year the sale of cider was further restricted. Once more it was deemed necessary to pre-

scribe anew the methods to be employed in executing search warrants, and it was further provided that all liquor confiscated should be destroyed.

Thus far, by persistent effort, the prohibitionists had succeeded in fortifying the prohibitory law. The Republican party, pledged in a measure to its support, was not unwilling to accede to the demands for new legislative enactments, at least up to a certain point, in return for political favors. The strongest adherents of the law virtually formed already a third party holding the balance of power. But, not content with their achievements, they now advocated an amendment to the Constitution prohibiting forever the manufacture as well as the sale of intoxicating liquors, except the sale for medicinal and mechanical purposes, and the sale of cider under certain restrictions.

THE PROHIBITORY CONSTITUTIONAL AMENDMENT OF 1884.

The question of the amendment was submitted to popular vote in 1884. The vote was surprisingly small, and it is open to doubt how far it represented the sober judgment of the people; but the amendment received a large majority. Many Republicans had declared their opposition to the measure, yet it was a party measure, and as such they submitted to it, but with reluctance. The secret ballot was at that time unknown in Maine. The opportunity was therefore open to those patrolling the polling-places to influence the voters by every device known to electioneers, and they were not slow in grasping it. And, lastly, the country was on the eve of a presidential election. The Democrats spared no effort to make it appear that the Republican candidate for the presidency favored constitutional prohibition, in the hope of drawing votes from him, especially in Western States with a large German population.

Setting aside the question as to how far the amendment

expressed the honest conviction of the people, it is certain that it did not help materially to suppress the liquor traffic. In the very year that it went into effect, further legislative enactments were called for. The maximum penalty for carrying on the business of a traveling liquor peddler or salesman was increased from $100 to $500 and costs for each offer to take an order, and for each order or sale so taken or made. The penalties for illegal sales were again changed, the second and subsequent offenses being more severely dealt with than before. Elaborate modes of procedure in case of searches and seizures were again provided. Advertising the sale of liquor was made punishable. The clerks of court were required to make public the disposition of all appealed liquor cases and indictments within thirty days after the adjournment of any superior court.

At the next session of the legislature (1887) an important section was added to the law, which, for reasons later apparent, is here given in full:—

"The payment of the United States special tax as a liquor-seller, or notice of any kind in any place of resort indicating that intoxicating liquors are there kept, sold, or given away, shall be held to be *prima facie* evidence that the person or persons paying such tax, and the party or parties displaying such notice, are common sellers of intoxicating liquors, and the premises kept by them common nuisances."

A change in the office of the state liquor commissioner was also made during this year. This official was placed on a salary, compelled to furnish bonds in the sum of $10,000, and authorized to charge a commission of six per cent. above cost on sales, to be paid over to the state treasurer. A fine was prescribed in case he should be found guilty of selling impure liquors. For removal of liquor from railroad cars at any but the established stations a fine of $50 was imposed.

In 1890 the question of repealing the prohibitory amend-

ment was voted upon, and an emphatic majority declared against repeal. A repeal would have been equivalent to declaring the failure of Republican policy in the State, — a step which the leaders of the dominant party naturally avoided.

During 1892–93 more noteworthy changes in the law were effected. The penalties for selling were increased by imposing imprisonment in addition to the fine. The difficulty in obtaining conviction, with the discretionary power of the courts taken away, soon became evident, and it was enhanced by the prevalent opinion of the judiciary that the punishments were incommensurate with the crime. Chiefly through the influence of the landlords' association, a clause was incorporated into the laws making it discretionary with the courts to impose either fine or imprisonment, or both where both are prescribed. It should be said, however, that the consideration of this clause did not come under the head of liquor laws, and the legislators generally were not aware of its true purport until it had passed the House.

A summary of the law as now in force follows: it prohibits, —

1. Selling intoxicating liquors (except for medicinal and mechanical purposes by city and town agents) under a penalty of $50 and thirty days' imprisonment; for subsequent convictions, a fine of $200 and six months' imprisonment.

2. Being a common seller (that is, a person known to have effected three or more sales of liquor), under a penalty of $100 and thirty days' imprisonment; on subsequent convictions, a fine of $200 and sixty days' imprisonment.

3. Keeping a drinking-house and tippling-shop, under a penalty of $100 and sixty days' imprisonment.

4. Depositing or having in possession liquor with intent to sell in violation of law, or with intent that any other person shall sell, or to aid any person in such sale, under a penalty of $100 and sixty days' imprisonment.

5. Traveling from place to place, carrying or offering for sale, or obtaining or offering to obtain, orders for the sale or

delivery of liquor, under a penalty of from $20 to $500, and, in default of payment, imprisonment of from two to six months.

6. Knowingly bringing into the State, or transporting from place to place in the State, liquor with intent to sell, or with intent that any other person shall sell, under a penalty of $200 and costs for each offense.

7. Manufacturing for sale any intoxicating liquors, with the exception of cider, under a penalty of $1,000 and imprisonment of two months.

8. Maintaining a nuisance, which is thus defined: all places used for the sale or depositing of intoxicating liquors, or where intoxicating liquors are sold for tippling purposes, and all places of resort where intoxicating liquors are kept, sold, given away, drunk, or dispensed in any manner not provided by law; the penalty being a fine not exceeding $1,000 or imprisonment for one year.

Further provisions are:

The payment of the United States special tax by any person as a liquor-dealer, or the displaying of such a tax on his premises, to be *prima facie* evidence that he is a common seller.

Any judge of a municipal court or trial justice to issue a search warrant upon the sworn complaint of a person competent to be sworn as a witness in a civil suit that he believes intoxicating liquors are unlawfully kept in any place and intended for sale; liquors found to be seized and immediate return to be made on the warrant.

Persons suspected of selling from their pockets to be searched in the same manner as above. The penalty for these offenses, a fine of $100 and costs and imprisonment for sixty days; in default of payment, sixty days additional.

The provisions of the law apply to the sale of intoxicating liquors imported in original packages.

The Drunk Law in Maine has undergone several changes since 1859. In that year the law prescribed as the penalty for intoxication and disturbing of the peace a maximum fine of five dollars; and for a second offense a maximum fine of ten dollars, or imprisonment for not exceeding sixty days. The punishment could be remitted, however, in whole or in part, at the discretion of the court. In 1880 the penalty was made imprisonment at labor instead of a

fine, extending to ninety days for a second offense. The sentence could not be remitted unless the prisoner, under oath, gave information from whom and where he had obtained liquor. Three years later, drunkenness was again made punishable by a maximum fine of ten dollars, or thirty days' imprisonment; and, for a second offense, by a maximum fine of twenty dollars, or ninety days' imprisonment. In 1885 the fines were abolished, and imprisonment alone imposed. In 1887 a first offense was once more made finable, but for a subsequent conviction thirty days' imprisonment was made the penalty. At the present time, the punishment for intoxication is a fine not exceeding ten dollars, or imprisonment for not more than thirty days; on a subsequent conviction, imprisonment alone for thirty days. The discretionary power of the court has been restored without requiring information from the prisoner as to the manner in which he became drunk.

It will be observed that the prohibitionists in Maine direct their efforts solely to crush the liquor-sellers. The deliberate and voluntary buyer of drink is in no wise touched by the law. The explanation offered of this fact, which is somewhat singular in view of the other fact that the sale of intoxicants is regarded as a crime *per se*, is that any piece of legislation aimed at the drink-buyer would certainly fail to pass. The most ardent supporters of the law yet complain loudly of its inadequacy. The new measures urgently needed, they say, are enactments depriving the courts of all discretionary power in punishing offenders, prescribing one penalty of the severest kind for every infringement of the law and changing the forms of procedure, in order that there may be less delay in the final adjudication of liquor cases.

The ruling party is chary in its concessions to the prohibitionists, evincing no disposition to legislate further than party advantage dictates, and to hold the prohibitionists'

support. It is between two fires, — on one side, the prohibitionists, backed by a powerful lobby, depending mainly upon moral influence and the ballot-box; on the other, the liquor element, wielding a telling money influence as well as commanding a large vote. That many of the acts relating to the prohibitory law have been passed through party exigencies, and not through moral conviction, has long since been accepted as a fact by those who have observed the tactics of the legislatures.

THE ENFORCEMENT OF THE LAW IN PORTLAND.

It has been authoritatively stated that the many amendments to the liquor laws were enacted primarily for the purpose of meeting the needs of the city of Portland. However this may be, in no other city have such strenuous efforts been made to suppress the liquor traffic as here. The prohibitionists have long recognized that success in Portland — the commercial, political, and intellectual capital of the State — would insure success elsewhere.

The city is not afflicted with a vicious floating population, its inhabitants are chiefly of native stock; there are no extensive manufacturing interests drawing together large numbers of operatives of the same class; indeed, the conditions for a fair test of the prohibitory law have been and are as good there as in any seaport of its size in the country. The facilities for obtaining illicit supplies through the proximity of Boston do not count for much, considering the means of communication existing almost everywhere at the present day. It should be remembered also that Portland, as the home of some of the most determined and influential promoters of prohibition, — notably General Neal Dow, — has never been without an anti-saloon sentiment of the strongest nature. Yet how far short of enforcement the law has fallen will now appear: —

With the prohibitory attempts previous to 1858 we need

not concern ourselves, since there was a license interregnum for two years (1856–58) after the passage of the first Maine Law.[1] In 1860 it is estimated that liquor was sold at 266 places. This would seem to be much exaggerated but for the records kept by wholesale liquor-dealers from that period. The great national questions of the time naturally overshadowed local issues. It is a matter of record that men grew wealthy in the liquor trade during the Civil War. In these years and until 1868 the enforcement of the law lay entirely in the hands of the local authorities. The police were not slow to discover that the presence of liquor-sellers might be turned to their own advantage in a twofold manner, — first, by exacting from them fees for protection, and, secondly, by holding them to certain political promises. That blackmail was regularly levied by the police as early as in the sixties is unquestionably true. The advocates of the Maine Law had already become convinced in 1867, principally we believe on account of conditions in Portland, that the local authorities could not be trusted to execute it rigidly, since in that year the act creating state constables was passed. The work of these officials in Portland was a conspicuous failure. According to the statements of persons who had direct dealings with them, their practices were no better than those of the police. The "Sheriff Law" of 1872 — passed, it is said, under the promise that it should not become effective — made it the duty of the county sheriff and his deputies to annihilate the liquor traffic, and, so far as Portland is concerned, the prohibitionists have ever since placed their main dependence upon these officials.

[1] Of the total population of Portland, 36,425 (census of 1890), 7,825 are foreign-born, and 8,730 of foreign parents. The foreign-born with respect to country of nativity are : Ireland, 3,140; Canada and Newfoundland, 2,923; England, 544; Scotland, 190; Denmark, 198; Sweden, 175; Russia, 170; Germany, 152; Norway, 134; other countries, 239. Those coming from the Provinces are nearly all of the Anglo-Saxon race. Most of the nationalities represented are well advanced toward Americanization.

Under the régime of the first sheriff, the law was honestly and impartially enforced, so far as it lay in his power to enforce it, but the support given him by other officials was not such as to check the sale of liquor permanently. As a matter of fact, for more than a decade after the passage of the sheriff law, "respectable saloons where gentlemen could go" flourished in the city. Until the adoption of the constitutional amendment in 1884, the officials generally contented themselves with compelling the saloon-keepers to close their shops at ten o'clock at night and on Sundays. An attempt in 1885 at enforcement was only partially successful, as may be judged from the fact that in the year following at least 158 liquor-shops were known to exist in the city. Open violation of the law was the rule until the election of the sheriff in 1891.

That the cause of temperance had made considerable and lasting gains, especially in the twenty years preceding the adoption of the constitutional amendment, is unquestionably true, but it is difficult to trace in these gains the direct effects of prohibitory law. Thus it is not observable that the attitude of the more representative citizens on the drink question was any different from the attitude of the same class of men in other States. Men who abstained, abstained voluntarily, not because of the law. While the public temptation had in some degree diminished by the abolition of "gilt-edge" saloons, there lurked a greater danger in the many clubs which had sprung up, chiefly for drinking purposes. No distilleries or breweries were suffered to exist in the city. Yet neither the supply nor the price of liquors was lessened, but the quality was worse. While the traffic at open bars had from time to time been to some extent driven away from the principal streets, still open bars existed in large numbers. Furthermore, to those who shunned the open bars the apothecary shops supplied liquor by the bottle as frequently as desired.

Since enforcement has rested with the county sheriff and his deputies, the local political contests between the supporters and the opponents of the law centre on the election of this official. The prohibitionists in Cumberland County are too hopelessly in the minority to elect a sheriff not affiliated with one of the leading parties. In fact, under ordinary circumstances, only a Republican may with much confidence aspire to the shrievalty. When, therefore, in 1890, violations in Portland had become too flagrant for endurance by even the most patient, a mighty effort was made to secure a Republican candidate for sheriff who could bring out the full prohibitory vote. Such a man was found, and every energy was bent to secure his election. Leading prohibitionists made a "schoolhouse" canvass for him. They carried the day. Immediately the new sheriff began war upon the liquor-dealers. The period of the strictest enforcement known perhaps in the history of Portland ensued. Even the hotels, for a while at least, abstained from selling. The ordinary saloons were closed. But a new vocation sprang up. There arose "pocket peddlers," most of whom were young men who loiter about the streets and wharves in the lower quarters of the city, and supply customers from the bottle. They serve a drink known as "split," a concoction consisting of the cheapest kind of alcohol — sometimes wood alcohol — mixed with water, with a dash of rum for flavor, and some coloring matter, which produces a violent and dangerous form of intoxication. In 1892 the number of pocket peddlers was estimated at nearly 200. It was not possible to suppress their business. Furthermore, the apothecary shops continued selling, though less openly than before. But the worst "leak" was at the city agency, at that time in Democratic hands, and evidently not in sympathy with the law. The sales at the agency took a sudden upward leap. Mr. E. L. Fanshaw, an Englishman, who made a study of the effects

of prohibition in Portland at this time, speaks of the agency in these words: "As a matter of fact, in Portland the question 'Medicine?' and the answer 'Yes,' seem to be held sufficient, and a small throng is commonly seen in the agency of persons waiting their turn for a flask of whiskey as 'medicine.'" ("Liquor Legislation in the United States and Canada," p. 107.)

The vigorous measures adopted by the sheriff did, beyond doubt, result in driving some dealers out of the business. A number were put in jail; others were financially crippled by the heavy fines imposed. But the severe régime was evidently not appreciated by a large portion of the population, for the sheriff came within forty-four votes of being defeated for a second term. Yet many Democrats abstained from voting, the issue being enforcement of the prohibitory law. The sheriff's defeat would have been certain but for the support received in the rural districts of the county.

How far the latest efforts to suppress the liquor traffic have failed may be inferred from the fact that in 1893 no less than 161 persons paid United States special liquor taxes in Portland.

Later the officers of the law gradually relaxed their vigilance. It was generally supposed that political exigencies were at the bottom of this change of affairs. With a county election pending, the dominant party was fearful of offending too openly an element of the population which under certain circumstances might find it profitable to turn upon its tormentors. Motives also of even a more sordid character kept officers from stamping out the liquor traffic.

The exact volume of the liquor trade in Portland cannot be determined. A fairly correct estimate, however, may be gained by ascertaining the number of places where liquor is sold for tippling purposes. Such places may be designated under the following heads: The ordinary

"protected" bars, including the so-called eating-houses; the kitchen bars; the pocket peddlers; the hotel bars; the apothecary shops; the bottling establishments and jobbing houses; the express companies; the clubs; and the city liquor agency.

The majority of the ordinary bars, that is, places where liquor only is sold, are situated on Centre, Commercial, and Fore streets, in the vicinity of the Grand Trunk station. Within a stone's-throw of the station about a dozen saloons are clustered. There is little evidence on the outside of these places to betray the nature of the business done within. But generally even the uninitiated would discern something of a suspicious nature about them, even if his nostrils did not detect the fumes of liquor. One or two sentinels patrol the immediate vicinity to give word of any impending danger. At present the fear is not so much of officers of the law as of private "spotters." Usually an anteroom, containing generally a show-case of cigars and confectionery, separates the bar from the street, but occasionally one need only push open a screen door to reach it. Although the usual drinking paraphernalia are ranged on a shelf behind a counter, the liquor is generally kept in cellars or in the back yards, where intricate devices are resorted to for the purpose of concealment. This is often an unnecessary precaution, and in some cases it is utterly disregarded, since "protection" is so fully enjoyed.

In the score or so of saloons of this class visited by the writer, from six to twenty persons were found who were there to drink, most of them young men, some of them boys between twelve and sixteen years of age. Occasionally small girls would come in to have "growlers" filled. Sometimes older girls appeared, to drink and to talk with the men. The customers lounged about, smoking and drinking, with an apparent sense of freedom and security. The fact that many of the proprietors had served sentences

in jail was referred to as a matter of pride. Several who had but recently returned from imprisonment (one the day previous) were already back at their old trade. Their relations with the officers of the law were spoken of with the utmost freedom. Drunkenness in its various stages was visible, especially in the places of the lowest grade. Other bars were conducted by men who both by dress and speech betrayed more refinement and intelligence than the ordinary saloon-keeper, and their customers were, in some cases, of a class one would not expect to find in such resorts. In addition to the profits from the sale of liquors, many of the proprietors obtain considerable revenue from policy-dealing. Policy slips were seen in nearly all the saloons inspected.

The question arises, How is it possible for so many men to conduct a traffic on public streets in open violation of the law? The answer is easy. In order to sell liquor profitably, it is necessary for the dealer to obtain supplies with regularity, and to sell with comparative immunity. Both these conditions are met in Portland. Nearly all the liquor brought into the city comes over the Boston and Maine Railroad, and is liable to seizure while in transit. It is thus necessary to secure the services of a person connected with that road who has power to shift and turn back cars loaded with liquor, whenever it is necessary to do so to elude the vigilance of liquor officers. In case of necessity a whole freight train must be sent across the Ligonia railroad bridge, out of city limits and out of the reach of officers, — at least compelling them to make a circuit of many miles to reach it. On almost any evening a person walking along Commercial Street, near the railroad freight yards, may see one or several "beer teams" delivering large kegs of beer and ale, sometimes under the very noses of police officers. There appears to be little or no attempt at concealment. Thus at the very outset bribery is resorted to.

Permission to run a saloon is a question of belonging to the "ring." Nearly all dealers can obtain this privilege by the payment of from $40 to $60 per month "hush-money," according to the business done. Previous to opening shop, a "trade" must be made with the officers. The "hush-money," concerning the amount of which the testimony of a dozen dealers who were questioned agrees, is paid, they say, to the police officers and sheriff's deputies. The presence of numerous saloons plying a brisk trade almost in the heart of the city cannot be explained on any other ground than that they pay for the immunity enjoyed. The suggestion that the officers grossly neglect their duties and violate their oath, out of disinterested sympathy with the dealers, is absurd. No more can it be believed that they are blind to a condition of things patent to every observing citizen. It is notorious that there is a keen competition between policemen for "rum beats." Both from the men immediately concerned and their friends the writer has heard complaints of unfairness in the distribution of beats, for the single reason that some were prevented from enjoying the spoils of a "rum beat."

Only by systematized bribery and corruption are the barkeepers of Portland so successful in evading the law. But it must be added that the dealers are required to observe certain rules; as, for example, that they close their shops at ten o'clock in the evening, that they abstain from selling on Sundays, and that they prevent disturbances on their premises. But if, for certain reasons, police visits are paid them, they usually receive a timely warning, so that when the officials arrive the premises are found temporarily vacated; two or three bottles of beer which, perhaps, have been left handy, are seized, and return is made on the warrant, "Owner unknown."

The number of "kitchen bars" varies considerably from time to time, being at the time of the writer's investigation

about eighty. They are found in the alleys, tenements, and tumble-down houses in the poorer sections of the city. They are not extensively "protected," and the owners must therefore resort to various devices to cover up their tracks. This is effectually done by an elaborate system of piping, or by traps of different kinds; the dark alleyways, crooked passageways, and general character of the houses aiding concealment. In these bars little but distilled liquor is sold, chiefly on Saturday evenings and Sundays. They are well patronized, especially by older men, who prefer the comparative quiet and seclusion which they afford. Liquor raids are mostly directed against kitchen bars not in the "ring," though these are often simply *pro forma*. The drinking at these bars is especially productive of intoxication, both because of the quality of the liquor sold and of the opportunity of uninterrupted indulgence. A kitchen bar is not easily found by a stranger, since only a few of them have outside sentinels; but it is well known that they infest whole blocks in different parts of the city.

The pocket peddlers multiply with amazing rapidity during a period of strict enforcement, and most of them disappear as suddenly in "wet times." At the time of the present investigation, not a few were found on the wharves and along the water front after dark, especially on Sundays. They supply "split," at the rate of thirty cents a pint for the cheapest grade. Boys of fifteen and upwards were found as venders of "split." The pocket peddler secures many victims on incoming fishing-vessels and coasting schooners, which he boards at the first opportunity.

At least five of the principal hotels sell liquor at bars, or it may be ordered in the rooms or at table. The hotel bars are not of higher order than the common saloons, and cater perhaps more to outsiders than to real guests. Since it is supposed that hotel-keepers are best able to pay, they are mulcted as high as $100 per month. The kind of im-

munity enjoyed by them is well illustrated by the following incident which came under the observation of the writer. At one of the principal hotels this message came over the telephone at two o'clock one Saturday afternoon: "They are coming at three o'clock." "They" were officials from the sheriff's office, who thus gave a timely warning of their intention to pay an official visit. Naturally, the necessary preparation was made for their reception, and the search resulted in nothing. But in the evening, for some reason, presumably on the complaint of some outsider, two police officers paid a call at the bar, which had reopened so soon as the sheriff's officers had left. The throng about it — standing four deep — was particularly noisy. After having watched the proceedings for a few moments, the officers showed their badges, closed the bar, and arrested one of the attendants. Although there was a plenty of direct evidence at hand, the case was settled in the municipal court the following Monday without the formality of a trial, the proprietor simply paying a fine of $100 and costs. At five o'clock that same Monday morning the hotel bar was open for business again. Although the newspapers refrained from making any reference to the incident, this raid created quite a sensation, not because the violation of the law was in the nature of a surprise, but because it was thought that the hotels enjoyed perfect protection. They are usually the last places to be raided, although they are among the most active distributers of drink.

At certain oyster houses on the principal street of the city, beer is sold in large quantities. These houses enjoy a somewhat exclusive patronage.

The drug-stores have ever been a fruitful source of drunkenness in Portland. There are no less than forty-five of these shops in the city, or one to about eight hundred inhabitants. This fact alone would suffice to show that all of them could not possibly subsist were their trade exclusively

in apothecary's wares. Indeed, from their very situation it is evident that they do not exist for the purpose of supplying drugs. Thus at the upper end of Congress Street, away from the most populous part of the city, three drug-stores are in close proximity to one another. On Middle Street, in a neighborhood equally unpropitious for the druggist's trade, they are remarkably numerous. Within a radius of a quarter of a mile or a trifle more from Monument Square, which may be designated as the heart of the city, one finds about thirty drug-stores. Others again are found in the most impossible places for legitimate business. To place all the drug-stores in Portland in the same category would, of course, be most unfair. Yet the fact remains that all but two, or at most three, when this investigation was made, had paid the United States special tax, which is *prima facie* evidence of violation of the liquor laws. But this does not necessarily mean that all having paid United States special taxes sell liquor for tippling purposes. So far as the wholesale druggists are concerned, the writer has it on the authority of one engaged in the business that a wholesale druggist who should refuse to fill orders for liquor from village druggists and physicians would be unable to retain his trade. Of the druggists doing a retail business only, some doubtless sell liquor only for medicinal purposes, but this also is a violation of the law. It is a conservative statement to say that about twenty drug-stores in Portland exist simply for the purpose of selling liquor.

It is commonly said that a number of druggists pay for protection, but to what extent this practice obtains is not known. The fact that some druggists are only liquor-sellers in disguise is a matter that has frequently been proved in the courts. Lastly, it should be remarked that liquor is sold at the apothecary shops on Sundays.

From the books of the collector of internal revenue it is found that five United States wholesale licenses were taken

out by residents of Portland in 1893, four for the sale of malt liquors and one for distilled liquors. There is good reason for the belief that others have embarked in the business since that date, for it must be remembered that 1893 is reckoned as a "dry" year. The wholesale dealers supply much of the family trade in Portland, and do a jobbing business in the small towns as well as sell to retailers in the city. At least one of them serves liquor (chiefly beer) by the glass. Certain bottling establishments, where large quantities of mineral waters are put up, derive perhaps an equally large revenue from the sale of liquor. The process of bottling the liquor (beer and ale) is in some instances carried on without any semblance of secrecy, and may be viewed from the sidewalks. The liberal display of brewers' advertisements is also sufficiently indicative of the business done. The delivery of beer to private houses is effected with impunity, although a certain amount of circumspection is deemed prudent.

Persons who wish to obtain liquor less openly may resort to a number of express companies which are ready to place orders for their customers with wholesale dealers in Boston and other cities. While this method is as unlawful as any, the difficulty of detection is obvious. The transaction between the taker of the order and the giver can easily be kept secret; when the liquor arrives, the express officials may declare ignorance of the contents of the packages, which are addressed to the individual consumer. The carrying of liquor packages ordered directly by the consumer himself is recognized as legitimate. This is usually done by the large express companies. Only the local expresses go into the order-business proper. But the latter do not always confine themselves to order-taking. From evidence produced in the courts, it is plain that they operate, in a quiet way, as jobbers, large quantities of liquor having been seized at their storage rooms. Conviction in such cases is not easily

obtained, for the packages may be labeled with fictitious names, and the defendant may swear that he is not aware that the liquor is intended for sale, or that he does not know the persons who will eventually call for it. It is in the nature of the case that not even an approximate estimate of the liquor brought into the city by expresses can be made. By well-informed persons the quantity is considered great and growing.

Drinking clubs, while by no means so numerous as they were ten years ago, still flourish. At other clubs, which exist for legitimate purposes, members have private lockers in which liquor is kept. This is of course not a violation of the law.

On the occasion of the writer's first visit to the Portland Liquor Agency, he was greeted with these words by one of the attendants: "This is nothing but a legalized rumshop, — that's all." The statistics abundantly vindicate this assertion. It was explained that certain formalities are observed. Thus the name and address of each purchaser are recorded. "Of course," the informant went on, "there are some we don't sell to and won't sell to (for instance, intoxicated persons and habitual drunkards), but if a respectable person comes in we don't ask questions." An instance was given of a well-known citizen who had just laid in supplies for a month, — not for medicinal purposes, as he expressly stated. The volume of trade at the agency depends upon the extent to which the law is enforced, and thus may be regarded as a barometer indicating "wet" and "dry" times in the city. On this point one of the attendants remarked, "Trade is not very lively now that the bars run openly." The agency is open from 9 A. M. to 1 P. M. and again from 1.30 to 6 P. M. on weekdays. A full line of goods is carried, from alcohol to champagne. It is a common complaint that the goods are not of a first-rate quality and are expensive. Yet, until lately, the profits

to the city from the sales were exceedingly small, if any. Recently, while the agency was in the hands of the Democrats, the net profits to the city reached $20,000. The principal liquors ordered from the state commissioner are whiskey and rum. Neither article is used for mechanical purposes, and the latter is certainly not generally ordered as medicine, or used in compounding prescriptions. The ease with which liquor may be obtained at the agency operates in the nature of a temptation for those who want liquor and yet would not patronize the law-breaking venders. The transactions of the agency vary greatly, — from $6,500 in 1876–77 to $18,000 the next year; from $12,000 in 1879–80 to $26,850 the year after; from $20,000 in 1884–85 to $28,000 in 1885–86. In 1891–92 the receipts were $57,000, and in 1892–93 they were $76,000.

The high figure reached by the sales in 1885 and in 1891 to 1894 shows how they are augmented in a period of enforcement. Evidently, then, the agency has degenerated into an officially protected bottle-shop and a source of intemperance.

For the sake of greater clearness, the number of places in Portland where liquor is at present sold for tippling purposes is given in a summarized form: —

Ordinary bars, including eating-houses and bottling establishments	54
Hotel bars	5
Kitchen bars	80
Apothecary shops	42
Liquor Agency	1
Total	182

In this list no account has been taken of pocket peddlers, houses of ill-fame, express companies, clubs, and certain oyster restaurants. Hence the statement is extremely conservative. It is well known that only a few of the kitchen barkeepers pay the United States special tax. Bearing in

mind that 161 United States special liquor taxes were paid by so many residents of Portland in 1893, — a year in which the law was enforced to some extent,— and allowing that of the kitchen bars one half, or 40, pay the special taxes, which would be an unusually large proportion, we still have 19 of these bars left to account for. While the present investigation was in progress, several new bars were opened. It therefore remains a low estimate to say that, reckoning the population of Portland at about 40,000 and the number of drinking places at 182, there is one such place to 219 inhabitants. No higher authority can be found than the high sheriff of Cumberland County, upon whom the enforcement of the laws depends. This official, in 1894, put the following question: "If a landlord cannot restrain one tenant, how can four deputies deal with 400 rumsellers in this city?"

Nearly all the persons who may properly be designated as barkeepers belong to the Irish or Irish-American population. Occasionally men of other nationalities (Russian Hebrews or Germans) are found as owners of saloons. The liquor-sellers of native stock are found chiefly among the druggists, although not a few of the drug-store keepers are of foreign descent. The brunt of the battle against the liquor law is borne by those engaged in no other business than that of selling liquor. They are adepts at their work, and shun no means, fair or foul, of gaining their ends. A whole generation has grown up trained from early infancy in the belief that the law is their natural enemy, and that their special province is to connect themselves directly or indirectly with an occupation which exists in defiance of the very Constitution of the State. It is a part of common speech in Portland to designate certain wards of the city as the "liquor wards." It is one of the peculiarities of the liquor traffic in prohibition cities that an unusual number of persons is required to conduct it. In the first place,

there is the proprietor, and probably the members of his family. But in case he is an old offender, and has reason to dread interference, he ceases, at least at times, to be the active proprietor. One or two men are engaged to tend bar, with the understanding that they are to act as owners if brought into court, and take the punishment (if imprisonment) that the law deals out. Two individuals are needed as sentinels to give alarm in case of an approaching raid.

By no means are all the persons classed as liquor-dealers proper on the lowest round of the social ladder. Some, especially of the second generation, have even attained political preferment and been members of the city government. But, however "high" their social standing may be, they are hand in glove with their brethren below them; they live by the same means, and profit by the same tactics. While there are understood to be two "gangs" of liquor-dealers, no enmity exists between the protected and unprotected sellers. The former fear to "crowd" the latter, lest public complaints should follow. Furthermore, the kitchen barkeeper often serves as a scapegoat who takes the punishment of the law when raids are in order. His risk is the greater. The liquor-sellers belong by inheritance to the Democratic party, and formerly remained loyal to it. But in the course of time it was discovered to be not always advantageous for the habitual violator of the law to remain a strict partisan. They have learned to change their party clothes as often as policy dictates. Of only one liquor-dealer has it been said that he refused both to buy immunity and to change his political creed. He fought the law openly, and was crushed, after twenty-five years, by the men he had helped into office. When the city is Democratic, the dealers are Democrats so far as expedient, and *vice versa*. Their political action depends, perhaps, more on county than on city politics, so long as sheriffs are elected on the liquor issue. Neither party

can safely ignore the liquor vote, and consequently both "play" to it more or less openly. Since 1872 the prohibitionists have placed their main reliance on the county sheriff and his deputies. While it was not intended to relieve the police department of its obvious duties, the enactment of the sheriff law has practically had this result, occasioning no little confusion. Statistics indicate that the activity of the police ceased largely, so far as the execution of the liquor laws was concerned, during the seventies, to be revived again later in an intermittent way, but never with the hoped-for results. A comparison between the work done by the police and the total number of cases of search and seizure, during the latest time of enforcement, gives further evidence on this point.

In his report for 1889–90, the city marshal, speaking of the prohibitory legislation, called it "this rock upon which so many city marshals have been wrecked and literally ground to powder in years gone by." The neglect of the police to enforce the law may in part be accounted for on political grounds; thus it is known that a Republican police force has thwarted the efforts of a Democratic mayor to put down the liquor-sellers. But at the present time there are three reasons for the failure of the police, — the commonly accepted theory that it is not their province to enforce these laws, except when specially called upon to do so; lack of sympathy with the laws, which is quite openly expressed; the influence of the money of the liquor-sellers. The last perhaps sufficiently explains the friendly feeling and the spirit of *camaraderie* prevailing between the guardians of the law and the offenders against the law, which the writer had frequent opportunity to observe.

The law compels magistrates to issue a warrant against persons suspected of violating the liquor laws on the complaint of any one competent to be sworn in a civil suit. It does not appear, however, that voluntary complaints pro-

ceeding from citizens are at all frequent. The contrary is apparently the fact, and this indicates the general apathy of the public. The warrants to search for liquor, and seize it if found, are generally sworn out at the will of the police and deputy sheriffs, and therefore need not be directed against their friends. The fact that the magistrates are deprived of all discretion in issuing warrants has given rise to a flood of what are technically known as "dummy warrants," that is, warrants taken out and returned with the seizure of half a pint or so of liquor of some kind, or taken out and returned without any seizure having been made. To save trouble, an officer may thus swear out half a dozen warrants at once, put them in his coat pocket, and serve them only when he feels like it. Yet the law prescribes that immediate returns shall be made on such warrants.

From 1874 to 1881 the police did very little to prevent liquor-selling, enforcement of the law, such as it was, emanating from the sheriff's office. In 1881, however, they began to show a greater activity, which apparently culminated in 1886. From that time on, the number of arrests decreased perceptibly. Yet the statistics of searches and seizures would indicate that they bestirred themselves in later years, notably in 1887 and 1891.

The remarks about "dummy warrants" are abundantly substantiated by statistics drawn from the annual reports of the city marshals. The swearing out of 7,793 warrants in one year (1886) was of itself absurd, and resulted in only a few more actual seizures, and not as many arrests, as resulted from one third the number of warrants in the year following. It is a remarkable circumstance that, while in 1891 liquor was found and seized on 425 warrants, only 2,939 gallons were taken, and that, in 1888, 7,564 gallons were seized on 353 warrants. However, this may be accounted for on the ground that the police frequently seize only a sufficient quantity of liquor "to make a show,"

and leave the rest, presumably in order that the dealer may be able to continue his business. The statistics afford conclusive evidence on two points, — the lack of honest enforcement on the part of the police, and the extent of liquor-selling in the city. The number of "dummy" warrants taken out, while always considerable, reached astounding proportions in 1885, when in six months 4,172 were issued. They were taken out at the rate of 534 per day, and one official in that year personally made oath to 4,535. Nothing can illustrate more forcibly the viciousness of a system which deprives magistrates of all discretion in making out warrants. The cost to the county of each seizure ranged from $5.65 in 1883 to $18.38 in 1881, and the cost of each case brought before court from $17 to $182. It is difficult to imagine that these differences can be accounted for satisfactorily. During six months in 1885, $5,243.44 were paid for warrants upon which no seizures were made. The total cost of liquor warrants for the same time, including the per diem pay of deputies and printing, reached $9,571.97, or about $62 for each case brought before court.

The cost to the county of Cumberland, in which Portland is situated, for the attempted suppression of the liquor traffic, not including officers' fees, but only the per diem of deputies, was, in 1886, $2,205.74; in 1887, $2,280.50; in 1888, $2,336.65; in 1889, $2,651.17; in 1890, $2,254.67; in 1891, $5,621.54; in 1892, $6,242.66; in 1893, $5,093.61.

No published returns exist of the work done by the deputy sheriffs towards suppressing sales, except such as may be extracted laboriously from the court records. Their methods are naturally the same as those pursued by the police. There is no reason to believe that they have been more faithful than the police to their duties. The widest publicity has been repeatedly given to this grave charge,

and that by persons from whom it would least be expected.[1]

[1] The following quotation is from an article published in the *Portland Express*, June 21, 1894. The *Express* is a Republican organ, and, the county and city officials being of the same political party, the charges are brought against its own party associates. That the disclosure was made with some political object in view does not concern us at present. "It is generally believed that permission to carry on liquor-selling is secured by a regular system of payments to those who have it in their power to practically annihilate the traffic if they are so disposed. The nature and extent of the 'protection' said to be arranged and paid for differs in different cases. Sometimes it is understood that regular payments must also be made 'to the court;' sometimes that they shall not be troubled save when 'outside complaint' is made, of which ample notice must be given, so that the resulting search may do no harm; sometimes that 'fines' will be exacted only when 'the court is short,' to use the technical parlance in such cases; sometimes that, when a public or political exigency requires a seizure, only enough shall be taken to 'make out a case,' the balance of the stock being left undisturbed, and the owner politely advised to 'step round to the court to-morrow and pay $100.' Sometimes this protection, it is said, is afforded for a certain time of business, beyond which the protected individual is not permitted to go, as that would interfere by way of competition with some other person, who is also said to be paying for 'protection,' and demands it from competition as well as from the penalties of the law.

"The regular exaction for 'protection' is said to range from $200 a month down, according to the nature, locality, and extent of the business carried on. Nor is this all. The victims of this system are expected to assist the candidates of their extortioners and blackmailers politically, in caucuses and otherwise, and thus aid in perpetuating the power which oppresses them. They make these regular payments, respond to many irregular demands for money besides, and render other incidental service, because they do not dare to do otherwise.

"Some liquor-dealers complain that their profits are cut down by the competition of shops allowed to exist in the vicinity of their own places of business, that the regular collection of protection money may also be made from them.

"These demands are in some instances also said to be so excessive that the dealers say they swallow up the lion's share of the profits, and sometimes actually force them to run more disreputable places than they otherwise would, in order to get in money enough to be able to respond to the perpetual squeezing.

"The blackmailers . . . calculate to leave the liquor-sellers profit enough to induce them to continue the business, and to keep quiet as to these extortions. But these latter are given to understand that failure to respond to demands for money or for assistance in caucuses and otherwise, or any 'squealing' about this blackmailing, will be followed by such vigorous prosecution as to drive them from business. They are also wickedly made

Yet a large number of persons are annually brought before the courts, and many of them are sentenced. Jurors, when drawn from the rural districts, are perhaps more inclined to convict than those from the city. The unblushing manner in which defendants and their witnesses resort to perjury helps to perplex matters. It is freely alleged that a number of "professional" witnesses exist in Portland who are ready "to swear to anything for the sake of the fee of $1.62." More cases were tried from 1891 to 1894 than from 1887 to 1890, but this fact does not prove that less liquor was sold during the latter period, any more than it proves that the traffic was exterminated in the former. The difference lies in this, that in 1891 a period of enforcement began. Nor must the inference be drawn that the number of persons tried represents so many individuals. The same individual may be tried on several counts, and appear in court year after year. "It is one of the most discouraging features of the liquor question in Portland," an ex-county attorney has remarked, "that the same faces are seen before the courts from year to year." It is a safe conclusion, however, that the courts would not be kept so busy unless the traffic were extensive. Taking the year 1893, for instance, we find that there was one

to believe in many instances by these alleged extortioners that officers who have no interest in this 'protection money' are knowing to and authorizing this bleeding process.

"Within certain circles, the names of the men who are said to demand the amounts it is alleged they regularly receive by levy of blackmail and bribes, the days on which it is said that they make the collection, the person from whom it is claimed they collect, are as freely mentioned as any fact of common notoriety."

That the foregoing disclosures led within a few weeks to the discharge of certain officials proves that they are not empty accusations manufactured for a purpose. However, to throw the whole blame on the officials is scarcely just; for it is evident that they have not only lacked the sympathetic support of the public, but there seems reason to believe that the assistance promised them from the Prohibitionists was not forthcoming. That the financial aid of the latter should be counted on is a peculiar phase of the situation, in view of the large sums annually spent by the county for the suppression of the liquor traffic.

seizure made to about twenty-two inhabitants, notwithstanding that the law was said to be enforced.

Of 275 cases tried in 1891 on search and seizure complaints, 179 resulted in convictions, or 65 per cent.; 33 per cent. were discharged; and 1.45 per cent. continued. Of those convicted, 76 per cent. appealed; 5 per cent. were committed on an appeal; 5 were committed; 8 per cent. paid fines and costs; and 5 per cent. had the sentences suspended. Of the 1,550 seizures that year, 17 per cent. resulted in trials.

In 1893, 9 per cent. of the seizures (1,789) resulted in trials. Of the 156 tried, 99, or 63 per cent., were convicted, and 57, or 36 per cent., discharged. Of those convicted, 75 per cent. appealed; 10 per cent. were committed on an appeal; 4 per cent. were committed; 2 per cent. paid the fines; and 8 per cent. had the sentence suspended.

In 1894 the number of seizures was surprisingly large, and the proportion of convictions surprisingly small. There is no evidence to the effect that sentences are unduly suspended or discharges improperly made. A surprising number of the latter are noted, however, among the nuisance cases in 1887. The large percentage of appeals attracts attention.

Whatever may have been accomplished by way of prosecution of sellers of liquor, which is not a great deal, their source of supplies has never been effectually stopped. The cases of illegal transportation have diminished in number rapidly since 1887. In 1892 only two such cases were tried. When the law in 1891 imposed a penalty of $500 and one year's imprisonment, prosecution for this offense virtually ceased. In a single case only has the full penalty been imposed. Neither judges nor juries deemed the sentence required on a conviction to be just. Why the number of transportation cases has not multiplied since the passage of the act of 1893, reducing the penalty to $200 without impris-

onment, has not been explained, and can only be inferred in a general way. Yet it is easily demonstrable that, so long as supplies from outside the State are available, liquor-selling is a tempting business and will flourish. It appears that even in times of enforcement the efforts to cut off the supplies are languid.

The financial ability of liquor-sellers generally to carry their cases to the higher courts can be explained on the sole ground of their profits from the illegal traffic. Many of them would be unable to do so but for the existence of professional bondsmen who are said to derive considerable revenue from their peculiar services. The regular charge for furnishing bonds in a liquor case is assumed to be $50. The risk is great, so that only persons in some manner intimately associated with the liquor element can engage in it.

The strength as well as the vitiating power of the liquor element in politics is perhaps as manifest in Portland as in any other city. The attitude of the dominant parties on the drink question has already been generally defined, but it ought to be distinctly stated in a concise form. The Republicans profess a belief in prohibition, — many of them, no doubt, from sincere conviction, — but will not as a party enforce the laws at any political loss. The Democrats favor a re-submission of the prohibitory amendment, and may properly be classed as opponents of the existing laws. The two leading parties are so evenly matched in Portland that neither can afford to ignore the strength of the liquor vote. This vote is simply concerned with this one question, "Which party will afford the better protection?" As the strength of the Prohibitionists is not in the city but in the country, the matter of enforcement does not become the principal issue in the election of city officials. In fact, it would be next to impossible to choose men pledged to enforcement. The Prohibitionists having long ceased to place their trust

in city officials, and the duty of enforcement having virtually been transferred to the sheriff and his deputies, it is in country rather than in city politics that we can best trace the influence of the liquor question.[1]

The epithets "rum-ruled" and "rum-ridden" applied to Portland by the Prohibitionists themselves, and their calling upon all electors to "unite in one grand and gigantic effort to redeem our county" (county convention call, 1894), do not point to a remarkable condition of sobriety. However, men are not wanting who assert that prohibition has checked drunkenness even in Portland, saying that its effects are chiefly to be noticed among the "middle class." Those forming the topmost stratum of society are, of course, not, as a rule, frequenters of bars of any description. In the clubs they are as much accustomed to the use of stimulants as the same class in other parts of New England. The consensus of opinion points to an increasing use of alcoholic beverages by this class during the last decade. The habit of using wines and malt beverages at table is also said to have grown more common. It is not to this class, however, that the Prohibitionists look for moral support, or the liquor-dealers for money. Those at the opposite social extreme fill the dock of the municipal court, and are the mainstays of pocket peddlers, certain kitchen bars, and the lowest "dives." Still their number is not legion. If we add to it the artisan class, the hired "help" of various kinds, and a large part of the floating population, we may have accounted for the majority of saloon frequenters, but not for the patrons of drug-stores and those who help to support the bottling establishments. Assuming, as we must, that the latter represent those between the two social extremes, we shall have the "middle class." That it is among those occupying the middle social position that the strongest tem-

[1] Votes cast for mayor in 1893: For Republican candidate, 3,871; for Democratic candidate, 3,498; for Prohibitionist candidate, 53.

perance sentiment prevails, is well known. Still the aggregate of total abstainers is increased not a little from the ranks below as well as from above. To account for the sale of liquor on the theory of a large floating population alone, or by asserting that drinking is mainly confined to one particular class, is impossible.

The absence of liquor advertisements in the shape of "gilt-edged" saloons with attractive show-windows, and the fact that the traffic has been driven into semi-obscurity, are referred to as indicating that prohibition has diminished temptation, and made it less reputable to visit liquor shops. This is doubtless true to some extent. But the bars are within easy reach of the best streets, if not established on them, as the hotel bars are, for instance, and they offer a dangerous seclusion for the customer who is once inside. Again, the apothecary shops hold out perhaps the most perilous kind of temptation, inasmuch as the drink-buyer is here free from observation, and is induced to purchase a larger quantity than is desired for immediate use.

Labor leaders, and others in position to know the habits of wage-earners, incline generally to the opinion that among this class drinking is on the increase. As a cause of intemperance, especially among young men, was mentioned the dearth of good pleasure resorts and public amusements. As one who for fourteen years has been a labor leader in Portland remarked: "They [the Prohibitionists] try to take the barrooms away from the boys, and give them nothing instead except the churches." The saloon is still a social centre in Portland, for which no permanent substitutes have been offered to the large numbers of young men, abounding in every city, who cannot in any sense be said to have homes.

The "hard" liquor sold in prohibitory cities is of an inferior quality, producing the quicker and more violent forms of intemperance. The stricter the enforcement the

poorer the liquor, which is often nothing but alcohol purchased from druggists and sold, after dilution, under the name of "split." Of this article "hard drinkers cannot stand half as much as they usually drink." During periods of enforcement, also, the quality of the "hard" liquor not only deteriorates, but it may become difficult, on account of their bulk, to obtain the ale and beer which under ordinary circumstances are much more commonly drunk than distilled spirits. In Portland there has never been a time when "split" and distilled spirits generally were not obtainable, but malt liquors have sometimes been excluded with results other than those intended. Persons friendly to prohibition, and themselves total abstainers, attest the truth of this.

The manner in which the "drunk law" is enforced by the police deserves special consideration. The law is understood to require that intoxicated persons disturbing the peace and in a helpless condition, when not cared for by any one, shall be arrested. There are two special temptations for the police to deal leniently with the intoxicated. In the first place, an officer who has a preference for "rum beats" finds it to his disadvantage to increase the number of arrests, lest he be discredited among the men with whom he has dealings, and strengthen the cry for stricter enforcement; secondly, there is a danger of pushing men, who might inform against him, too hard. The frequency of public drunkenness, and the indifference of the police to it, may be illustrated by the following entries from the writer's note-book: —

"May 18, 1894. Twenty intoxicated persons, some of them in a helpless condition, were encountered in the course of less than an hour's walk.

"May 20. Five boys were discovered sleeping off a debauch on a wharf. Policemen took no notice, although attention was called. Boys apparently between 15 and 20.

"May 26. While standing outside the —— Hotel, between

11.30 P. M. and 12 M., forty drunken men were counted, several unable to take care of themselves, and tacking aimlessly about. Policemen saw them ; and one, who had his attention called to it, returned a curt 'Mind your own business.'"

The following incident was related to the writer by a clergyman, a prominent Prohibitionist and the leader of a temperance mission : On a Sunday evening, while walking uptown from the Boston steamboat wharf, a distance of three fourths of a mile, he counted nineteen drunken men ; two were stretched out on the sidewalk, so that he had to step over them in walking by. Two policemen were appealed to, but their only answer was a sneer. He waited in vain for a while to see if the patrol wagon would be called. The incident was published in a newspaper. At a meeting of ministers it was referred to, and the mayor, who was present, was called upon to explain. He said that the article was only one of those too common unsubstantiated newspaper flings. Whereupon the author of the article arose and expressed his willingness to testify against the officers involved.

Statistics of arrests for drunkenness between the years 1872 and 1894 show remarkable fluctuations, and illustrate how misleading such statistics are when unaccompanied by explanations of every modifying circumstance. For instance, a decline in arrests per 1,000 inhabitants since 1873 is observed, and simultaneously an increase in the number of common drunkards confined, which is in direct contradiction. Equally mysterious appears the fact that, while the number of arrests for drunkenness only has on the whole fallen off, the number for drunkenness and disturbance shows surprising growth. The explanations are found in the manner of the interpretation of the drunk law. The city marshals have enjoyed much latitude in this respect, and have pursued, apparently, whichever policy suited them best.

Persons arrested for drunkenness alone are, as a rule, not fined. Persons arrested three times for intoxication are supposed to be classed as common drunkards. Yet it is found that when the number of arrests reached its highest figure, — 74 per 1,000 inhabitants in 1873, — not a single person was confined for being a common drunkard. We cannot conceive of this as purely accidental. No more can the rapid increase of common drunkards, shown since 1886 (1886, 81; 1887, 136; 1888, 174; 1889, 136; 1890, 154; 1891, 87; 1892, 68; 1893, 170; 1894, 183), be taken as evidence that their numbers actually swelled to such extent, or that intemperance grew with such strides. A gentleman who for years has had much official experience with drunkards says that the police frequently mark particularly obnoxious or unruly persons as common drunkards, not necessarily in a vindictive spirit, but to subject them to the severer punishment.

The safest explanation of the remarkable fluctuations shown by the statistics is found in the changes in the office of city marshal. The great increase of arrests in 1873 (total, 2,400), as compared with the preceding year (925), must be attributed to the advent of a new official, who held office until 1876. During his term the percentage of arrests did not vary greatly, and was the highest known for Portland. Under his successor, from 1876 to 1882 inclusive, there was no noteworthy change in the number of arrests either for better or worse. From 1883 to 1886, each year saw a change in the marshalship, the person elected in the latter year holding office till the end of 1888. The next official remained in office two years, and appears to have dealt rather leniently with the drunkards. In 1891 and 1892 there was a falling off in the number of arrests. It would be pleasant to attribute this to the period of enforcement which began in the former year, but the figures for 1893 and 1894 flatly contradict such an assumption. We are

thus compelled to attribute it to lax police methods. In the report for 1890, the city marshal, in speaking of the arrests for violations of the liquor law, said: "The rum-sellers have been driven from one form of selling to another more secret, but none the less productive of drunkenness in our streets." What was true of that year is generally true, that periodic enforcements do not tend to diminish the number of arrests in large cities. "The results of prohibition in Portland cannot be argued from any statistics of arrests, because there never has been a time when liquor could not be obtained."

The conclusion must be, that it is impossible to state from the statistics adduced just how far they reflect greater or less public inebriety. The general impression is, that drunkenness is as prevalent now as ever before the constitutional amendment went into effect, if not more so.

The toleration of an open defiance of the laws and the Constitution indicates, not merely a widespread lack of sympathy with prohibitory measures, but a callousness of public sentiment which of itself is grave. Citizens have become so accustomed to this defiance that little attention is paid to the continuance of violation of the liquor statutes, or to the contempt for law and order generally which is an inevitable consequence. Day by day and year by year the same items of searches and seizures, and arrests for offenses against the liquor laws, appear with tolerable regularity in the newspapers. The public has ceased to take special note of them. A local judge, in speaking of conditions under a prohibitory law not enforced, has said: "The value of the oath has been reduced fifty per cent. in this State. Perjury (for which the maximum penalty is imprisonment for life) is so common that it no longer attracts attention. And it is not confined only to the liquor element; the effect of it is far-reaching and growing. People talk of it openly without a blush."

Members of the Supreme Judicial Court have said substantially the same thing, and prosecutions for perjury committed during the trial of liquor cases are not frequent. Closely akin to perjury is the hypocrisy engendered when people are called upon to support a law that they do not believe in. The support of prohibition at the polls and in party platforms, while it is so ill enforced, can be explained only on the ground that men have become hypocrites. A judge of the Supreme Court, as quoted in public newspapers, referring to conditions in Cumberland County, said: "It is a question whether the prohibitory law makes more hypocrites or more drunkards." It would perhaps have been more just to say: "It is a question whether more men have become drunkards or hypocrites under the prohibitory law." Of course the rank and file of the third-party men do honestly believe in the law, and fervently work for its full execution.

THE ENFORCEMENT OF THE LAW IN A TYPICAL VILLAGE.

In semi-rural districts — villages free from numbers of factory operatives, and removed from the influence of commercial and industrial centres, with a nearly homogeneous population of native stock — prohibition should yield its best results.

Farmington, the shire town of Oxford County, about four hours by railway from Lewiston, was spoken of by well-informed Prohibitionists as a place where the law worked under the most favorable conditions. The town had in 1890 a population of 3,207, including all the inhabitants of the town, which covers an area of 23,000 acres and contains three other villages, — West Farmington, Farmington Falls, and Fairbanks. Farmington proper has about 1,700 inhabitants. Here dwell the greater number of the 107 people of foreign birth. They are nearly all French Canadians, generally esteemed for their thrift and

exemplary habits. With these few exceptions the inhabitants are of pure American stock, brought up, both in school and in church, to practice total abstinence. As a shire town, and the largest in the county, Farmington has attracted a number of professional men, who, together with those engaged in mercantile pursuits, constitute the larger portion of the population. There are a small box-factory and a lumber mill or two. The town has always given public expression to a strong prohibitory sentiment. Yet public opinion has not been strong enough to extirpate liquor-selling. Five United States special liquor taxes were paid for by residents in 1894. At two of the hotels both malt and distilled liquors are supplied to guests in their rooms, and not infrequently to others who drop in; but there are no bars. At one of the three drug-stores, at least, liquor can be bought by any trusted customer. Furthermore, it is said by old residents that illicit sales are carried on periodically at from one to three other places, but their identity is not easily revealed. An official, whose duty it is to enforce prohibition, is quoted as saying that "from one to six packages of liquor arrive by express every day." Persons soliciting orders for liquors pay occasional visits to the village. One "wet grocery" drummer, met by the writer, spoke of his trade as "brisk." Three cider mills supply "applejack," which is consumed in considerable quantities. To the town officers, if not to the public generally, the sale of liquor at the hotels and drug-stores or other shops is well known. That all should be oblivious to the existence of United States licenses is hardly credible. Still the presence of a liquor agency would be regarded as a blot on the community.

Since the letter of the prohibitory law is not obeyed, we must expect to find the question of enforcement a frequent issue in local politics. No man can hope for election as sheriff who exhibits open hostility to the law, but the

uncompromising Prohibitionist is equally sure of formidable opposition. It is not said that any officer personally profits by the protection of liquor-sellers, but the evidence shows that they do not make a strong fight against the violation of law, — whether from lack of sympathy with it, or because they do not wish to expose men who are their friends. In a small village friendship plays an important part.

As to the actual state of sobriety in the town, the statistics of arrests cannot be accepted as trustworthy evidence. While they indicate on the whole a falling off in the number since 1886, the fluctuations are almost abnormal, and on the whole there is a lack of conformity between the number made for drunkenness and those made for violations of the liquor law. Thus, in 1888, only five liquor cases came up before the municipal court, but ten persons were arrested for drunkenness; in the next year, only four; and yet no less than twenty-eight searches and seizures were made, and seven persons were indicted for selling liquor on other warrants. Habitual drunkards are still found, but one may confidently believe that there is less inebriety than there was, say, ten years ago. While an institute for the treatment of drunkenness was open in the village, about forty patients from Farmington and vicinity were treated; and occasionally one meets persons under the influence of patent-medicine preparations.

When to the number of places where liquor-selling goes on undisturbed is added the number of arrests for offenses against the law, it appears how far short the efforts fall to stamp out the traffic. Thirty-five liquor cases in one year (as in 1889) is an excessive number in a population of 3,207 in a largely agricultural community.

It is believed that Farmington may fairly be regarded as typical of the towns in Maine where the prohibition law is most nearly observed or enforced. Of course there are single villages where its enforcement is more rigid and others where it is more lax.

The effects of prohibition in the State at large are best shown by a review of its working in the counties, with particular comment on communities specially studied. This study is the more natural, since the liquor traffic is dealt with by counties, and their methods are not uniform. The history of the enforcement is not minutely related. The present condition is typical of the past and sums it up.

CUMBERLAND COUNTY.

The efforts to suppress the traffic in Portland naturally extend to other parts of the county, with some success in the rural communities of the western portion. But this does not mean that consumption has been stopped in the same measure. In the absence of local dealers, supplies may be obtained from Portland on a few hours' notice, and agents frequently appear to solicit orders. Some kitchen bars in a few of the western villages are said to sell without a United States license, but their operations must be insignificant. In small places in the populous counties would-be liquor-sellers have a wholesome fear of United States marshals, who are much more dreaded than local officials. The cities of Deering and Westbrook may be regarded as suburbs of Portland, closely connected with that city by rail and electric cars. Nevertheless liquor taxes are paid in both places. The prevalence of drunkenness among young men in Westbrook lately occasioned much talk there. Cape Elizabeth, a large town with seven post-offices, is just across the upper harbor from Portland, and is inhabited by a fishing and farming population. Notwithstanding the fact that perhaps one half of the inhabitants have easy access to the Portland saloons, five persons on the Cape pay the special tax. Cushing's and Peak's islands belong to Portland; it is not known that liquor is sold on them except in the summer time.

The only city in the county removed some distance from

Portland is Brunswick, the home of Bowdoin College. The many French Canadian residents here maintain an extensive kitchen-bar trade. The number of places at which liquor is sold must thus be placed higher than indicated by the number of taxes paid (nine in 1894–95). The traffic has never been stopped under the prohibitory law. It is alleged that the business is protected in a mild way. Remembering that Brunswick is under the same officials as Portland, this does not seem improbable. The 154 places in the county where liquor is sold, as shown by the payment of the United States tax, contain 69,598 of the 90,949 inhabitants of the county.

ANDROSCOGGIN COUNTY.

Androscoggin County, although one of the smallest in area, ranks sixth in population (48,968), of which considerably more than one half is found in the cities of Auburn and Lewiston. The question of enforcement of the law for the whole county, therefore, involves its enforcement in these cities. A manufacturing community with a foreign population of 8,563 out of a total of 21,701 in 1890, Lewiston is not favorable to a prohibitory law. The inhabitants of foreign birth, mostly French Canadians, generally oppose it. It is not known that there has ever been a protracted period of strict enforcement. The many attempts have failed, partly because sympathy with the law has been lacking, and partly because the temptation to protect the traffic for private profit has proved too strong. Not even an offer of premiums to officials elected to stop it has had the desired effect. One official, on retiring from office, is said to have remarked, with reference to such an offer, "One might as well try to turn back the current of the Androscoggin River as to stop rumselling in Lewiston."

No resident having a personal acquaintance with the liquor element puts the number of places where liquor is

sold in Lewiston lower than 200. A liquor-dealer who visits the city periodically says that there are 150, including hotel bars, drug-stores, common saloons, and kitchen bars. It is difficult to locate the kitchen bars, which appear in the most unexpected places, — in the rear of barber-shops, fish markets, fruit-stands, — and are commonly carried on by French Canadians, who sell to their own people and are very reticent. At the hotel bars and in the ordinary saloons liquor is dispensed openly. Many saloons are found on the principal street (Lisbon) within hailing distance of the City Hall. Signs of the business done within are plainly visible from without. At the perfectly equipped bars, liquor is kept in sight, even large casks of ale being rolled about without a show of fear. The city supports no less than 30 "drug-stores," 19 of which are on Lisbon Street within a space of little more than half a mile. At nearly all, if not at all of them, liquor is sold by the bottle or the glass. In many instances the shops are merely disguised as drug-stores; the various receptacles are filled with colored water, a few cheap articles are exposed for sale, but in the rear are regular bars with a full line of drinks, and malt liquors on draught. In a recent report the State Commission of Pharmacy quotes from a letter by a "well-known resident:" "There are thirty drug-stores in Lewiston, and half of them are run by men not registered." The Commission does not refute this charge, but apparently indorses it. That these "dummy drug-stores," as they are called, are allowed to exist shows to what extent the law is unenforced. In addition to the bars of various kinds, Lewiston has six "drinking clubs."

The liquor-dealers themselves allege that they have to pay for the immunity they enjoy in selling, and outsiders say openly that of course the barkeepers have their friends who protect them. The police apparently restrict their efforts to seizures of liquor in transit, but seizures are often

evaded by having the goods shipped to Farmington and returned to Lewiston. Nevertheless, the interference of the officers cannot be said to check the trade.[1] Most of the raids by the police are directed against the kitchen bars.

SALES OF THE LEWISTON LIQUOR AGENCY.

Years.	Amount.	Years.	Amount.
1880	$5,525.84	1887	$6,202.40
1881	5,625.47	1888	10,360.49
1882	6,822.49	1889	9,766.35
1883	5,943.66	1890	15,105.46
1884	7,542.64	1891	10,575.13
1885	10,164.64	1892	11,710.63
1886	8,255.67		

The statistics of arrests are of little or no value as determining the sobriety in the city. It is not improbable that intemperance is more common now than it was ten years ago, but not to the extent that the statistics of arrest would seem to show. The number of arrests was 53 in 1882 and 265 in 1892, or 2.7 and 12.4 respectively per 1,000 inhabitants. The largest number of arrests in a single year during a period of thirteen years was 469 in 1890, or 21.6 per 1,000 inhabitants. In 1883 no less than 14 persons out of a total of 65 arrested were classed as common drunkards. In 1892, with over four times as many arrests (265), not a single individual was reckoned a common drunkard. The ratio of seizures during the period 1880–92 did not increase in proportion to the arrests for drunkenness. So far as could be observed, the police are lenient with intoxicated persons. But it should be said

[1] Under date of July 8, 1895, a prominent citizen of Lewiston writes: "The liquor traffic is simply run in the interest of the Republican party here, and under their administration no notice whatever is taken of it, other than the occasional raiding of some old woman's kitchen or the spasmodic seizure of a wagon load of beer. While there are sixty-three liquor-dealers paying special tax (as retailers), there are more than three times that number of sellers who make no attempt at concealment of the same. These things are so well known that it is scarcely a matter of comment."

that the force is too small to cover the city properly. Probably the fluctuations in sales at the city liquor agency do not indicate strict enforcement, since there is no reason to believe that liquor has ever been sold with greater freedom than now, and still the sales at the agency maintain very high figures. The common supposition that it is simply another "legalized rumshop" seems to have foundation.

Auburn enjoys the singular distinction of being the only city in Maine in which no liquor is sold for tippling purposes, unless at the agency. Its proximity to Lewiston accounts for this condition — only a short bridge intervening between them.

AROOSTOOK COUNTY.

Until recent years the vast region included in Aroostook County has been regarded as a wilderness, and the greater portion of it remains such to-day. Its 6,800 square miles of territory contain only 49,589 inhabitants, chiefly settled along the border of the State from south to north. More than one half of them are of foreign birth or parentage. Whole towns, like Fort Kent and Frenchville, are populated almost exclusively by French Canadians, not a single American name appearing in the list of town officers and business men. Others are occupied by immigrants of other nationalities. With a heterogeneous and scattered population, it is not strange that the liquor traffic should flourish nearly unchecked. The number of United States special liquor taxes (sixty-five in 1894–95) is conclusive evidence on this point, but these by no means represent the extent of the traffic. Despite the vigilance of federal officers, many sell without a license. The long stretch of border offers excellent facilities for smuggling, and the necessity of transportation over the railroads from the interior of the State is thus partly obviated. Setting aside the plantations and unorganized places and taking only the towns, we find

that 17 of these, with a total population of 25,075, contain special liquor tax payers, as against 19, having 13,540 inhabitants, in which no such taxes are paid. The unusually large number of liquor tax payers in the more important centres, notably Caribou 16, population 4,087, Houlton 20, population 4,015, and Presque Isle 5, population 3,046, are especially significant.

FRANKLIN COUNTY.

The total absence of large villages has simplified the question of enforcing the liquor laws in Franklin County. Extensive tracts are still but sparsely inhabited; in fact, the census shows a distinct loss in population for the whole county. The characteristics noted for Farmington apply more or less to all of the villages. Within a year the number of persons paying the United States tax has been increased by five (twelve in all in 1894–95). In Kingfield, Strong, and other places some illicit traffic is known to exist. While probably less spirits are sold in this county — in some places none — than in any other, and it thus shows as encouraging results from prohibition as any, it is also the best illustration of how far it is possible to force complete obedience to the law under the most favorable circumstances.

HANCOCK COUNTY.

Hancock is one of the seven counties in the State in which the prohibitory law is allowed to slumber. In so far as the county officials bestir themselves, the repletion of the treasury from the fines collected appears to be the prime motive. Generally the law remains inoperative.

A prohibitive régime at Bar Harbor and the other watering-places in the county would not only be resented by visitors, but would perhaps prove disastrous financially to those who derive much profit from the large summer population. Hence the summer hotels at Bar Harbor are, as a

rule, let severely alone. At the end of the season occasional raids are made, and the remaining stock, very small, of course, is confiscated. The extent to which the law is violated at Bar Harbor is indicated by the number of United States special tax payments (twenty-five in 1894–95). So long as the hotel-keepers are practically assured of non-interference, the officials cannot very well prevent the existence of dramshops pure and simple. Except at the summer resorts, Hancock County offers conditions not unfavorable for a prohibitory law. The foreign element of the population forms an insignificant part, nor is there a single seaport of prominence. The only place designated as a city is Ellsworth, a retrogressive place with a population of 4,804 in 1890. The city limits extend over an area of 53,000 acres, equal to the area of the city of New York, and it includes three villages and many farms. Ellsworth proper has a population of scarcely more than 2,200 inhabitants, but contains 14 bars and four other places (apothecary shops) where liquor is sold, or one to about 219 inhabitants. The traffic is but ill concealed; the dealers no longer fear expulsion, but only fines accompanied perhaps by more or less unpleasant raids. Gambling was going on in several saloons visited by the writer.

KENNEBEC COUNTY.

In Kennebec County prohibition has to meet conditions not unlike those in Androscoggin County. There is a large foreign population living in cities with extensive manufacturing interests. Of the 57,012 inhabitants, 12,712, or 22 per cent., are foreign-born or of foreign parentage — nearly all French Canadians employed in the mills, or as lumbermen. Kennebec is one of the counties where the law is enforced for revenue only; that is, seizures are made for the purpose of collecting fines to defray county expenses. Local officials are occasionally elected with the understanding that

they must suppress the sale of liquor, but they have not effected any permanent improvement.

Augusta, the capital of the State, supports 50 places where liquor is sold by persons paying the United States tax, including the drug-stores, of which there are 11, the hotels, eating-houses, and ordinary saloons; also 12 kitchen bars, most of them situated along the water-front in the French Canadian quarters. This gives a total of 62, or one to about 170 inhabitants, according to the census of 1890. In the very house where the liquor laws passed at the State House are said to be made, the law is broken, and that, it is said, by the very men who vote for every prohibitory amendment. The local express companies help to swell the flood of liquor by taking orders for so small a quantity as one quart at a time. One company, however, does not deign to accept orders for less than five gallons. A former city marshal owns one of these express lines. It is commonly asserted that the dealers "stand in" with the officers of the law. One dealer made the sententious remark, "You don't suppose the officers would be such fools as not to touch me up." Still, men are chosen for office on the pledge that they will rid the city of liquor-selling. It is not difficult for them to keep up a semblance of activity. A city marshal may, for instance, carry on a spasmodic warfare against dealers of the opposite political faith, while he shields those of his own. Or should the exigencies of the moment demand that his party associates also be punished, he may confine his operations to seizures, and, at a later date, return the liquor seized to its owners. These things have been done in Augusta, private honor and public trust being sold as merchandise in all matters concerning the prohibitory law and its execution.

At Gardiner, a few miles below Augusta, on the Kennebec River, liquor is sold possibly with still more freedom. The practice of serving liquor by the glass is more common

at the drug-stores. A dealer of whom inquiry was made estimated the number of places where spirits are served at 19. There are 20 special liquor tax payers. It is a conservative estimate that in Gardiner there is one liquor shop to about 274 inhabitants.

In Hallowell, situated between Augusta and Gardiner, conditions are not perceptibly better. In Waterville the number of United States special liquor tax payers (twenty-three in number in 1894–95) does not fairly represent the extent of the liquor trade. A personal count of the places where liquor is sold (including hotels, apothecary shops, kitchen bars, and common saloons) gives a total of about thirty-five, or one to a little more than 200 inhabitants. Saloons may be found occupying some of the best sites on the principal street of the city, some of which serve exclusively the "gentlemen trade." While the traffic is protected, bribery is said to be less common here than in other cities. An instance was related by a trustworthy person illustrating the temptation to embark in liquor-selling for the great profit in it. One man approached an official and asked his permission to open a bar for six months. The immediate answer was, "What will you give?" The man promised one half of the profits. Mutual fear prevented the closing of the bargain at that time, but the man owns a saloon to-day. The proportion of saloons to inhabitants in the cities of Kennebec County does not admit of the supposition that the anti-saloon sentiment is common or very active; nor is it possible that they could exist in such number without the patronage of the rural population. The truth is that the liquor business is overdone in these places. Many dealers find it difficult to pay the periodical fines and to meet the other expenses of the traffic. If we add up the population of the cities and towns paying United States special liquor taxes and those that pay none, we get a total of 34,994 "wet" as against 22,018 for the

towns reckoned as "dry," or about 60 per cent. of the whole population of the county.

KNOX COUNTY.

Counties with a large seafaring population are rather uncongenial to prohibitory legislation. Knox County is such a one, but it harbors only a few foreigners. The law is enforced as it is in Penobscot County. When the saloons become too bold, or upon the advent of some strong prohibitionist new to the city (usually a clergyman), a period of liquor war ensues. The result is a temporary suspension of the business. During the progress of the present investigation many raids were made in Rockland at the instigation of the clergy. What effect they had may be judged from a single instance. In the week of June 17, 1894, one of the principal hotel bars was raided twice, but it continued to do a lively trade, and was patronized almost exclusively by the well-to-do citizens. It is a conservative estimate that liquor is sold at about forty-five places in Rockland. One drinking-place to 171 inhabitants is therefore the average for this city. Rockland bears all the marks of a locality in which intemperance is common and not confined to any particular class. The viciousness of the lower drinking element is greater here than was observed elsewhere. The relations of the liquor-dealers to officials charged with the enforcements of the law are in many respects similar to those noted in other cities. Protection is not always given gratis, yet conditions are better than, for instance, in Augusta and Lewiston. Men who cannot be bought with money may be bribed by votes. More than one attempt at continued enforcement has been frustrated by the intimation that if the officer did not "let up," he could expect no further favors at the hands of the voters. This kind of intimidation is practiced not only by liquor-dealers, and it could never prove effective unless it repre-

sented strong public sentiment. For several years there has been no change of city marshals. Presumably, therefore, the same methods have obtained with regard to arrests. Supposing that the city is better policed than it was ten years ago, there is still reason to believe that intemperance has increased. So far as could be learned, the police are not very strict about making arrests for drunkenness. Their inactivity in arresting liquor-sellers also is plainly shown by statistics for the years 1885–93. In 1893 only ten persons were arrested for illegal selling, while 236 were charged with drunkenness, not to mention those held in "safekeeping," of whom the greater number were intoxicated. No town in Maine, except the seashore resorts, has so many liquor-shops in proportion to the inhabitants as Camden, where no less than twelve persons paid the United States special tax in 1893, or one to about 206 inhabitants.[1] In ten out of sixteen towns in Knox County liquor is sold. The towns which are presumably free from the traffic contain only 5,494 inhabitants of the total of 31,473, or 17 per cent. Under such circumstances wholesome results from prohibition cannot be looked for.

LINCOLN COUNTY.

Lincoln County offers singularly favorable conditions for the enforcement of a prohibitory law. Its population is nearly all of one race and religion; only 480 persons are recorded as of foreign nativity. But here, as elsewhere, the payment of United States special taxes (18 in 1894–95) offers much *prima facie* evidence of intent to sell. It may, however, be said in extenuation of some of the towns, notably of Boothbay Harbor and Wiscasset, that they are summer resort towns; and as if by common consent, violation of the statutes at places where summer guests abound

[1] In 1894 only five persons paid special taxes; a period of enforcement had set in.

is overlooked. Whether liquor is sold to a greater extent than indicated by the special taxes paid is not known.

OXFORD COUNTY.

Oxford County is by many regarded as the most encouraging field for the study of the benefits of prohibition. Its remoteness from the great highways of commerce, its homogeneous population, and almost exclusively agricultural pursuits offer exceptional facilities for the enforcement of prohibitory laws. Except in the new manufacturing village of Rumford Falls, comparatively few United States licenses were paid in the county in 1894–95. From memoranda furnished by persons in the trade, it appears that liquor is sold in the following towns which in 1893 were without United States liquor tax payers. In Paris (population 3,156, with 4 villages) at three places; in Fryeburg (population 1,418, with 6 post-offices) at three places; in Andover (population 740) at two; in Bryant's Pond (in the town of Woodstock, with a population of 859) at one; in Oxford (population 1,455) at one.

The 13 towns in which it is known that the liquor traffic still exists contain 15,873 inhabitants as against 14,713 in the 22 towns and 4 plantations where, so far as can be ascertained, the law is obeyed. In some of the many towns bordering on New Hampshire the opportunity for bringing liquors into the State is unusually good; but notwithstanding the many assertions to the contrary, there seems no valid reason to believe that it is habitually used on a large scale.

PENOBSCOT COUNTY.

Every effort to induce or force obedience to the liquor laws in Penobscot County has met an unrelenting and, in the end, victorious opposition, which has not restricted its operations to the populous centres only. The city of Bangor, however, and other large places determine the issues

for the rest of the county, and therefore these require special consideration. Bangor, a seaport of some magnitude, with a large lumber industry but no other manufacturing interests of importance, had in 1890 a population of 19,103, of which 3,471 were foreign-born, generally from the provinces. During the season for lumber-drives, the floating population is greatly augmented by men of the drinking class. It is not recorded that the local officials have expended much energy for any length of time in efforts to stamp out the traffic. The sure reward of such action would be defeat at the polls or failure of reappointment. In the seventies, a county sheriff fought the liquor element persistently with every means in his power. The trade was temporarily driven into dark places and partly crippled, but drink-selling still flourished, and with it intemperance. This officer is reported to have said that nothing could induce him again to pass through such an ordeal. Later attempts at enforcement by means of special officers appointed by the governor were attended by similar results. One of these officers has declared that he found the municipal officials and the public arrayed against him, and soon relinquished the odious task. The number of United States special liquor taxes paid by residents of Bangor in 1894–95 was 146, including those for a wholesale business.

A police official estimated the number of regular liquor-shops at 150, to which must be added about 40 kitchen bars. If the total be only 185, this gives one liquor-shop to about 100 inhabitants — an indication that the liquor business is overdone. Many engaged in it find it difficult to eke out a subsistence and collect the sums needed to pay the periodically recurring fines. Liquor agents complain that "collections are hard" in Bangor. The saloons are, of course, run openly without any attempt at disguise. Many are on the principal thoroughfares, and the operations at the bars may often be viewed from the sidewalk. Ex-

cept for the absence of gilded signs and the usual show window, there is little to distinguish them from saloons in license cities. The ordinary saloons are naturally subjected to certain police regulations; thus they are required to close at ten P. M., to refrain from Sunday selling, and otherwise to observe general decorum. So long as they do this, perfect immunity can be relied upon. The owners are occasionally reminded of the fact that they are lawbreakers by notices to appear in court and pay fines; these, however, are levied with no thought of enforcement, but simply to meet county expenses. But for this one circumstance, no greater odium would attach to the liquor traffic in Bangor than in any other city. As a matter of fact the public, as well as the dealers themselves, have grown so accustomed to the payment of fines that it is regarded merely as a business incident.

In certain respects the saloons in Bangor present a sharp contrast to those in Portland. They are more orderly, do not tolerate the presence of minors or children, and are not such perpetual abodes of the vicious. In general they conform pretty well to the police regulations. Notwithstanding all that has been said, the police are still much occupied with violations of the liquor laws. In 1893, for instance, the arrests on the search and seizure warrants numbered sixty-five — or more, proportionately, than in some cities where the police are supposed to carry on war against all who sell liquor. This unexpected activity can easily be accounted for. The numerous kitchen bars are the most disorderly, and sell "after hours" and on Sundays. For such offenses they are raided, the liquor confiscated, and the owners taken before the courts. Not infrequently some of the regular dealers come under the ban, and are similarly dealt with. Diligent search for any evidence showing that the police in Bangor extort money for protection of the *illicit* traffic resulted in the conviction that they do not, nor can political bribery well be resorted to.

A candidate openly pledged to enforcement would not be considered eligible.

Were it necessary to dwell further on the unique position held by the bars in this city, outlawed though they be, it is enough to say that they cater to the very element in the community whose active support is a *conditio sine qua non* of their suppression. While some of the evils connected with non-enforcement are less glaring than in Portland and other cities in the State, the demoralizing effect of the toleration of open rebellion against the law is obvious. That the operations of so many saloons cause much drunkenness is unavoidable. But the actual amount of it, as compared with other places, remains a matter of conjecture. The statistics indicate an unusually high rate of arrests. In 1884 they were 19.2 per 1,000 inhabitants; 1885, 41.3; 1886, 44.6; 1887, 47.4; 1888, 48.1; 1889, 48.4; 1890, 49.4; 1891, 53.4; 1892, 48.4; 1893, 64.0. During the months of log-driving the number of arrests takes a sudden upward leap. Men thus employed, coming to the city from certain provinces, are almost without exception heavy drinkers. So far as could be observed, there was not so much public intoxication in Bangor as in Portland.

Since all the apothecary shops sell liquor, some of them by the glass, the need of a liquor agency in Bangor is not quite apparent, except it may be that a number of persons with strong principles refuse to purchase from shops not legalized. From the appended figures showing the transactions of the agency for a number of years, it is a safe conclusion that it in part occupies the same field as the non-legalized liquor-shop.

SALES OF THE BANGOR LIQUOR AGENCY.

Year.	Amount.	Year.	Amount.
1884	$9,021.30	1889	$14,606.43
1885	7,464.42	1890	15,734.66
1886	8,427.47	1891	10,498.79 (10 mos.)
1887	12,384.15	1892	12,713.74
1888	15,563.61	1893	13,169.93

Other cities in the county follow the example of Bangor in their manner of dealing with the liquor traffic. In Brewer, just across the river, 7 United States liquor tax payers were found in 1893; Orono, 7 miles north, with only 2,790 inhabitants, had 6. The city of Oldtown, 12 miles from Bangor, counted 26. But it must not be inferred that these places allow liquor-selling to go on unchecked at all times. For instance, in Oldtown the traffic was carried on at about 40 places, counting the kitchen bars, until the last of February, 1894. The mayor then coming into office had been elected to enforce the prohibitory law. By persistent effort he closed the bars, and at the time of this investigation it was said that very little liquor was sold. As a lumber city Oldtown is frequented by large numbers of the drinking class, who greatly increase the difficulties of enforcement.

Of the sixty-two cities, towns, and plantations in the county, liquor is sold, according to the United States Revenue Records of 1894, in twenty-five, which include all the principal centres and contain 48,970 inhabitants, or 67 per cent. of the whole. Presumably the illicit traffic is even more extensive. Not every individual who sells pays the United States special tax. As we already know, other counties influenced by the example of Penobscot have adopted the same methods of evading the law. No severer blow has been dealt prohibition than the methods successfully pursued by the city of Bangor.

PISCATAQUIS COUNTY.

Only the southern portion of the large tract (3,780 square miles) embraced in Piscataquis County can be regarded as settled. The existence of United States special tax payers in no less than four of the unorganized places indicates a wider violation of the law than local statistics show, especially in the lumber regions. It is only proper to say that

the many sportsmen and summer visitors who frequent the county help to reduce the effectiveness of the prohibitory law. About one eighth of the population are foreign-born or of foreign parentage.

SAGADAHOC COUNTY.

Scarcely any part of the small county of Sagadahoc is free from the liquor traffic. In the city of Bath, which contains nearly one half of the total population, the sale was for many years practically unrestricted until the month of June, 1894. The sheriff's officers persistently refused to meddle with the liquor element, because they said that this duty properly belonged to the city police and the mayor. But in 1894, after a good deal of pressure upon the mayor, two special liquor officers were appointed. They began their duties by notifying seventy-two dealers, owners of common saloons, hotels, apothecary shops, kitchen bars, and eating-houses, to cease selling. Many obeyed the order, saying, however, "We are waiting till the storm blows over," or, "till we can make a deal." Others continued, some selling only beer because they feared a seizure of the more costly liquors; others selling only distilled spirits because of their smaller bulk. About forty places were still doing business some weeks after the new period of enforcement set in, but more secretly than before. The largest number of saloons in operation were found in the poorer sections along the water-front. The apathy of the police can be explained only on the ground that the traffic is not unprofitable to them. This is the general understanding. They manifested their lack of sympathy with the new régime, it is alleged, by making fewer arrests, although visible drunkenness increased when enforcement was decreed. With nearly the same number of inhabitants to each place where liquor is sold, one would naturally expect as high a percentage of arrests in Bath as in Bangor. But this is far

from being the case, as the following figures show: Arrests in 1884, 19.9 per 1,000 inhabitants; in 1885, 17.8; 1886, 14.0; 1887, 18.7; 1888, 21.7; 1889, 23.9; 1890, 22.9; 1891, 19.4; 1892, 21.4; 1893, 20.4. The remarkable discrepancy may be partly attributable to the large floating population of Bangor, and partly to the lax police methods in Bath.

SOMERSET COUNTY.

The prohibitory law is enforced in Somerset County after the Penobscot model. With regard to Skowhegan, the number of United States special tax payers (12 in 1894–95) does not represent the extent of the traffic. The lowest estimate fixes the present number of dramshops at twenty-five. Skowhegan has a large French Canadian population. The officials show no disposition to enforce the law except for the sake of collecting fines to pay county expenses. The relation of the police to the lawbreakers is said to be the same as noted in other cities. The town of Fairfield, two miles from Waterville, has six post-offices and ten United States liquor tax payers. In the village proper six ordinary bars were counted. Numerous kitchen bars are said to exist in the quarters along the river bank populated by French Canadians. In the plantations liquor is sold with even more freedom than in the towns. In Jackmantown, for instance, there was in 1893 one special tax payer to fifty-four inhabitants; Sandy Bay had one to thirty-one inhabitants. For the whole county, it may be said that the liquor law is inoperative. The places where liquor is sold contain 21,629 inhabitants, or 66 per cent. of the total population.

WALDO COUNTY.

Waldo County is one of the several counties which show a distinct decrease in population. Outside the city of Belfast there are few United States special tax payers. In

Belfast there is one liquor tax payer to about 481 inhabitants. The city is noted for its numerous sarsaparilla factories. Much of the "medicine" contains sufficient alcohol to produce drunkenness, and is habitually used in remote districts as a stimulant. Indeed, in many parts of the State various preparations sold under such names as "Morning Glory Bitters," "Beef, Wine, and Iron," and various kinds of "Sarsaparilla" have alcohol as the principal ingredient, and are used as a substitute for whiskey. On the whole it cannot be said that the liquor law is vigorously enforced in this county.

WASHINGTON COUNTY.

In response to inquiries relative to the workings of the prohibitory law in Eastport, the following was received from a well-known attorney: "The law is not strictly or constantly enforced. I think drunkenness may have been on the decrease during the past ten years. Kitchen bars, closed bars, and places where liquor is served in one form and another number possibly from forty to fifty. There may be some reason to believe that liquor-dealers have paid officials for protection, but the proof is wanting; it is a fact that danger signals are displayed when any squall of enforcement approaches this section." Another gentleman equally well known, while stating that the law is not continually or strictly enforced, does not admit that there are any places where liquor is sold. Yet in 1894–95 twenty-two United States special liquor taxes were paid by residents of Eastport, or one to 224 inhabitants. The town of Brookton has an unusual number of special tax payers in proportion to its size. In the towns along the Canadian border liquor is smuggled, for the remoteness of many of the towns and the imperfect means of communication render a vigilant enforcement of the law impossible.

YORK COUNTY.

In York County the enforcement of the prohibitory law is difficult. There are a number of popular seaside resorts; two cities and one town with large manufacturing interests, employing thousands of persons not natives; and seven towns bordering on New Hampshire. Of the 9,965 persons of foreign birth in the whole county, not less than 6,290 are found in the city of Biddeford alone. But however little sympathy with prohibitory legislation is displayed by them, they cannot bear the whole responsibility for the liquor traffic in this city.

What has been said relative to the conditions under which the illicit traffic is carried on in Portland, and the various results observed, applies with equal force to Biddeford. It is stated that there is always more intoxication visible in the streets during a time of so-called enforcement, since malt liquors are then not so easily obtained, and many have to content themselves with "split."

The city of Saco bears the same geographical relation to Biddeford as Auburn to Lewiston, yet is by no means free from liquor-selling.

At Old Orchard the law is grossly violated, especially during the summer season. Much gambling is said to be connected with the illegal sale. Within a year the number of persons paying the United States special tax has increased from thirteen to eighteen. Among others, a wholesale liquor-dealer from Boston has embarked in the "drug business."

In Sanford the operatives employed in the large plush mills, who are nearly all of foreign extraction, are said to oppose every attempt at enforcing the law.

The places in the county in which liquor is sold, as shown by United States special tax payments, contain 35,717 inhabitants, or 56 per cent. of the total population.

GENERAL SUMMARY.

According to the special United States tax payments the liquor traffic exists in eighty-seven places in Maine, containing 407,925 of the 661,086 inhabitants of the State, or about 61 per cent. It may be said that the mere existence of one liquor tax payer in a town of, say, nearly 2,000 inhabitants, scattered over thousands of acres, does not prove that most of the towns do not enjoy the advantages of a generally enforced prohibitory law. The ready answer to this is that by no means do all dealers pay the United States tax. An ex-deputy collector of internal revenue states that in 1890, 956 persons paid this tax in Maine, and adds, "but I have always figured that there were 500 more who ought to have paid, but who did not." At every session of the United States Circuit Court, says the presiding judge, from eight to ten cases are tried for violation of the United States revenue law; that is, for failure to pay the special tax. The stricter the enforcement of the law, the less willing are the dealers to pay the tax, and thus furnish evidence against themselves. A falling off in the number of special liquor tax payers does not therefore necessarily indicate a proportional decrease of the traffic. Furthermore it should be remembered that many towns without special tax payers are adjacent to liquor centres, so that the law puts not the slightest barrier to obtaining liquor.

Without considering the activity of express companies and other carriers, it remains a conservative statement, however unwelcome it may be, that more than two thirds of the population of Maine are not living under an enforced prohibitory law, and that more than one half live in towns and cities where the liquor traffic is practically unrestricted, so far as the opportunity for procuring drink is concerned.

What has been said about the prevalence of liquor-selling

in Maine to-day would have held true years ago. Statistics compiled from the reports of the Commissioners of Internal Revenue show that, in proportion to the population, the dealers were numerically about as strong in 1881 as in 1894. The increase of special tax payers beginning with 1879 is probably due to a better organized revenue service rather than to the general neglect of state officials in enforcing the law. The enthusiastic sentiment in response to which prohibition was made constitutional in 1884 did not have the force to deter more than one thousand men from defying the Constitution by paying the annual liquor tax to the United States government. No better success attended the act of 1887, which made the payment of the special tax *prima facie* evidence of intent to violate the law. Direct evidence of the considerable proportions of the liquor trade in Maine is found in the large number of men who, in violation of law, travel about soliciting orders for wholesale houses. In addition to the agents of local firms, there are between thirty and forty representing liquor houses in Boston, New York, and Western cities. They are found everywhere, even seeking customers in remote towns with a sparse population. Many of them are permanent residents, nor are they inimical to the prohibitory law as now enforced.

Both the extent of the traffic in Maine and the difficulty of enforcing prohibition are made evident by the following totals of prosecutions in the several counties, compiled from the returns of the attorney-general. Still, these represent but a part of the liquor cases annually tried, and the immense legal machinery put in operation to secure obedience to this one law. Only the cases coming up before the superior courts and justices of the supreme court on circuit are included in these totals. But in many instances, as we know, cases are tried and settled before municipal judges or trial justices, and consequently do not appear in the returns for the whole State.

NUMBER OF PROSECUTIONS IN THE STATE INSTITUTED BEFORE THE SUPREME JUDICIAL AND SUPERIOR COURTS, AND PROPORTION OF CASES FOR VIOLATION OF THE LIQUOR LAWS, 1877–1894.

Years.	Whole Number.	Liquor Cases.
1877	3,473	2,010
1878	1,250	676
1879	942	475
1880	963	496
1881	1,200	765
1882	1,173	785
1883	1,343	789
1884	1,445	982
1885	1,409	945
1886	1,107	732
1887	No reports.	–
1888	No reports.	–
1889	1,231	819
1890	1,132	726
1891	1,103	819
1892	1,569	1,156
1893	2,092	1,327
1894	2,294	1,444

A reading of this table leads directly to two conclusions: (1) That but for the liquor cases the criminal docket in Maine would be reduced to less than one half of its present proportions; and (2) that the legal forces employed are not sufficient to stop liquor-selling. The first year given shows the greatest number of prosecutions, but it is by no means clear that the effect was to administer even a temporary check to the illicit traffic. Penobscot County was the chief offender in that year. One searches vainly through the statistics in detail for any evidence to show that bringing offenders against the liquor laws to justice has materially lessened their number in a single county. It should again be remarked that the number of cases do not, in all

instances, represent so many individuals. One person may often be tried on two or more indictments.[1]

The next table, also compiled from the records of the attorney-general, should be read in connection with the foregoing. The sentences imposed by municipal courts and trial justices, and not appealed from, do not appear in the figures. Still, the majority of offenses are tried on indictment, or appeals from the decisions of the lower courts, so that most of the sentences imposed find a place in the returns.

NUMBER OF THE PERSONS SENTENCED, AND THE PROPORTION SENTENCED FOR VIOLATION OF THE LIQUOR LAW, 1882-1894.

Years.	Whole Number.	For Violating Liquor Law.
1882	538	396
1883	654	447
1884	670	492
1885	618	428
1886	553	364
1887	No reports.	–
1888	No reports.	–
1889	519	323
1890	589	366
1891	584	380
1892	675	522
1893	894	696
1894	1,037	714

[1] The following is from an editorial article in the *Portland Argus* of June 28, 1895 : —

"At the May term of the Supreme Judicial Court for York County, Clerk Hervey reports the 'disposition' of sixty indictments for liquor-selling. In these sixty cases just six convictions were made, and fines of a hundred dollars and costs imposed. In twenty-four cases 'nol pros.' was entered on the docket. Twenty-four other cases were 'continued,' and some 'filed.' In six cases action was discontinued because the witnesses are dead. In at least two cases occurs the entry 'no such person' against the name of the party accused. We fancy that the York County record is not singular ; and that in other counties in Maine cases have been continued until the witnesses have died, — perhaps of old age."

The number of individuals sentenced is of course much less than would seem from the figures, each person being counted once for every sentence imposed on him. During one year a person in Cumberland County was convicted on thirteen counts for violation of the liquor laws, and was sentenced that number of times. This was a rare exception, but it frequently happens that the name of the same individual is counted three times in one year, except in the counties where the law is hardly enforced at all, or for revenue only.

A comparison of the number of sentences imposed and the number of liquor cases tried is interesting. Taking the last four years, it is found that of 819 cases tried in 1891 sentence was imposed in only 380, or 46 per cent.; in 1892, 1,159 cases, and 522 sentences, or 45 per cent.; in 1893, 1,327 cases and 696 sentences, or 52 per cent.; in 1894, 1,444 cases and 714 sentences, or 49 per cent.

There is no reason to believe that the courts deal with liquor cases otherwise than on their merits. The discrepancy between the number of persons brought to trial and the number finally convicted must therefore be explained on general grounds, although it seems natural, as has commonly been asserted, that juries are not so willing to bring in a verdict of guilty in liquor cases as in others.

With regard to the penalties imposed, a great variety is observed in the different counties. Taking only the year 1892, when the law still deprived the courts of all discretion in liquor cases, most of the persons convicted in Androscoggin County were fined from $25 to $200, or imprisoned from one to six months. In Cumberland County the fines ranged from $11.99 to $830.48, the majority exceeding $200. Most of the indictments were made under the nuisance act, and thus the necessity of imposing imprisonment in addition to the fine was obviated. In Kennebec County fines running considerably lower than in Cumber-

land were the common punishment. In Knox County the nuisance act was taken advantage of, and the average fine placed at $110. The same was true of Penobscot, Washington, York, and some other counties. Only in Hancock were the dealers made to suffer both fine and imprisonment. At present imprisonment is rarely resorted to in any county except in default of payment of fines and costs. A disposition unfavorable to imposing the severest penalties of the law is thus manifest. In Maine the rule has been, the more unrelenting the liquor law, the fewer convictions under it. Except in Cumberland County, relatively few dealers have gone to jail from inability to pay fines. Not infrequently wholesale dealers in Boston and elsewhere help them out or aid in defraying the expenses of litigation.

The state liquor commissioner holds a peculiar position in the prohibitive community, and the office is an important part of the institutions which have grown up under the prohibition law. The law requires that he shall make annual returns of his business to the governor and council, and that they shall be published in the newspapers. As a rule, very incomplete statements were handed in, reporting the quantities of liquor of various kinds sold to the different agencies and the total sum received for them, without further details. Sometimes no statement was made, as in 1889 and 1892, and only on rare occasions were his reports published — for thirteen years only once. The office is one of the greatest if not the greatest "plum" in the State. It is understood to be worth from $8,000 to $10,000 a year. By those in the liquor business it is "rated" much higher than these figures. It is a part of the political machine, and its occupant must contribute liberally to the campaign funds. Formerly the commissioner was allowed a percentage on the sales, but now he receives a salary and must pay a seven per cent. commission to the State. A few words are necessary to explain how, in spite of this

arrangement, the office became such a rich reward for political service. On being appointed to the place the commissioner asked for offers to supply liquors. Agents for various liquor houses made their bids, promising him a certain percentage for the privilege of supplying the state liquor.

One cannot in reason expect that the liquor supplied by the state agent should be either pure or cheap, nor can it be wondered at that unsavory practices are in vogue among city and town agents also. To cite a single example: one city agency sold a brand of whiskey at $4.50 per gallon, of which the original cost was $1.80; of the $4.50, $1 was given to the Democratic City Committee, $1 to the "drummer" who had sold the liquor, and the remainder was taken care of by the local agent.

The office of liquor commissioner has been made the subject of legislative action forced by the scandals connected with it. A semiannual auditing of the commissioner's accounts by a committee composed of members of the governor's council is now required, as well as inspection and analysis of all liquors furnished for the State. The new act leaves the supervision of the affairs of the commissioner to the same body of men who were formerly charged with it. On the petition of "ten or more well-known tax-payers" a town liquor agency may be closed if its affairs be found to be conducted in violation of the law.

An idea of the magnitude and growth of the state liquor "business" may be obtained from the following tables. Reports for 1889 and 1892 have not been made.

Malt liquor and wines are not included, and they do not enter largely into the sales.

TRANSACTIONS OF THE STATE LIQUOR COMMISSIONER.

Years.	Quantity of Liquor Sold.		Value.
	Gallons.	Dozen Pints.	
1887	8,651	66	$19,872.40
1888	30,226.44	299	75,915.24
1890	30,106	277	76,388.59
1891	21,892	179	57,974.65[1]
1893	34,348.80	697	130,812.29

KINDS AND QUANTITY OF LIQUOR SUPPLIED BY THE STATE COMMISSIONER TO THE AGENCIES AT

Years.	Portland.		Biddeford.		Lewiston.	
	Whiskey. (Galls.)	Rum. (Galls.)	Whiskey. (Galls.)	Rum. (Galls.)	Whiskey. (Galls.)	Rum. (Galls.)
1887	792	938	690	316	131	173
1888	222	3320	1890	885	397	184
1890	2337	1472	1599	648	1230	801
1891	2628	1406	2076	657	3592	259
1892	7586	5981	4145	1297	1104	325

While much alcohol is purchased in Maine for use in preparing intoxicating drinks, it is reasonable to suppose that most of the alcohol sold through the agencies is used for mechanical and medicinal purposes; not so with whiskey and rum.

By the second table it appears that not far from two quarts of whiskey and rum per capita of the population in Portland was furnished by the state agent in 1893.

[1] During seven months of the year. The total sales for 1891 represent $99,815.

How far prohibition has fostered sobriety in Maine must be inferred from the manner of its enforcement and the extent of the illicit traffic. The question is at bottom one of consumption, not whence come the supplies, and how they are delivered to the customer; but data of consumption are unattainable, although positive statements relative to its amount are as frequent as they are untrustworthy. Furthermore, in measuring the benefits of prohibition, a completely unregulated traffic cannot be taken as a standard of comparison. Neither can it be taken for granted that the good results of a prohibitory régime in semi-rural communities are due to prohibitory legislation. In Massachusetts, for instance, the number of towns outlawing the saloon, previous to the enactment of the local option law, far exceeded the number of towns in Maine where, at the same time, prohibition was partially enforced. And there are other considerations to be weighed carefully.

The fact that prohibition has so long had a place on the statute books, and latterly in the Constitution, has fostered a feeling of security detrimental to the cause of temperance pure and simple. Men in sympathy with the aim of prohibition complain that the temperance work which formerly reached the masses has degenerated into meetings for political purposes, or that the agitation for abstinence has become a cry for police and detective methods. The identification of great temperance organizations with party politics has crippled their influence as popular moral agents, however much it may have aided the election of officials chosen for prohibitory purposes.

As to the relation of politics to prohibition, it is a pertinent remark that "politics have a double effect in Maine, weakening the opposition to the law itself as well as weakening its enforcement." In other words, whether to win favor or because of fear, many men assume a friendly attitude toward the law in which they disbelieve. The ques-

tion of enforcement depends mainly on political exigencies, which, again, depend on the state of public opinion. A full-blown hypocrisy must result from this method of dealing with prohibition. Nowhere is it so blatant as in the legislative halls, where men lend their votes in support of restrictive measures of which they not only disapprove but violate openly and even grossly. The corrupting influence of a large social element thriving in defiance of all law needs no further elucidation; bribery, perjury, and official dishonor follow it.

1894.

THE HISTORY OF PROHIBITION IN IOWA.

The First General Assembly of Iowa, in 1846, passed an act embodying the principle of local option. The electors in each county were directed to vote for or against the granting of licenses by the county commissioners; the result was almost unanimously against the retail traffic; only one county cast a majority in its favor. At first this action of the people at the polls "seemed to put a slight check on the liquor traffic: some grocery-keepers quit the business, while others sold commodities and gave away liquor." But it was rumored that the law was unconstitutional; and, about the time it was to be enforced, an adverse decision upon a similar statute by the Supreme Court of Pennsylvania [1] caused the Iowa law to become a dead letter. Many counties reversed their former vote and authorized the county commissioners to give licenses, but even under these circumstances some commissioners refused to do it. Accordingly petitions in favor of the repeal of local option and for the enactment of a prohibitory law in its stead were presented to the legislature of 1850.

The Code of Iowa, approved in 1851, contained a chapter on the "Sale of Intoxicating Liquors," which began with the declaration that, although the traffic was not prohibited, "the people of this State will hereafter take no share in the profits." It forbade the retailing of liquors by the glass, and declared dramshops to be public nuisances, and was in effect a prohibitory law, though it assumed not to be such.

[1] See Barr's Pennsylvania State Reports, vol. vi. pp. 507–529, Parker *v.* Commonwealth.

The law was not satisfactory either to the prohibitionists or to the anti-prohibitionists of that day. The Democratic governor, in 1852, suggested its repeal, and the substitution for it of "a judicious license system." The prohibitionists, on the other hand, had secured between four and five thousand signatures to a petition for the enactment of a stronger law; but their bill failed to pass.

In 1854 the Whig party incorporated in its platform a resolution declaring for a law prohibiting the manufacture and sale of ardent spirits within the State as a beverage, which was the first appearance in Iowa of prohibition as a political issue. The Whigs elected their candidate for governor that autumn by a majority of 1,823. This year, however, the original prohibitory law was repealed, and an act passed "for the suppression of intemperance." This was in substance the famous "Maine law." It provided for the sale of liquors by county agents, "for medicinal, mechanical, and sacramental purposes only," but "foreign" liquors could be sold by importers in the original packages. Cider and wine made from fruit grown by the maker could also be sold in quantities not less than five gallons. Being submitted to the people at the April election in 1855, it was approved by a majority of 2,910. The validity of the new act was disputed, on the ground that its submission was unconstitutional. But the Supreme Court held that, although the popular vote in its favor was of no effect, the act was a complete act and became a law by its adoption by the General Assembly and approval by the governor.

At about this time the questions growing out of the effort to extend the territorial area of slavery began to assume alarming prominence. The early settlers of Iowa were strongly anti-slavery in their sentiments. The State had been decidedly a Democratic State till 1854, when it became Whig, and in 1856 Republican. There was, however, a German population, disposed to vote with the opponents of

slavery, but to which prohibition was repulsive. Accordingly, to propitiate them and to secure their adhesion to the new Republican party, the General Assembly, in 1856, passed a supplemental act designed to relax the rigor of absolute prohibition. By this act the manufacture of cider, wine, ale, and beer was authorized without restriction. Other provisions required the county judge in any county, on the petition of one hundred voters, to order a vote taken at any election on the question of license, and if a majority appeared in its favor he was authorized to grant licenses for the sale of malt, spirituous, and vinous liquors.

This act was held by the Supreme Court to be unconstitutional, on the ground that it "attempted to abrogate the uniform operation of a law general in its nature" and to "provide for licensing the sale of intoxicating liquors in any county, not by virtue of an act of the legislature passed into a law, but by a vote of the majority of the people of such county expressed at the polls," which was "in effect the repeal of one law and the enactment of another by a vote of the people, . . . a plain surrender to the people of the law-making power." The court said that "the prohibitory liquor law is a law of a general nature, and its operation must be uniform throughout the State."

In 1856 the General Assembly abolished the county agent system, and allowed any citizen not a hotel-keeper, or keeper of a saloon or eating-house, to sell "intoxicating" liquors "for mechanical, medicinal, culinary, and sacramental purposes only," if furnished with the required legal certificate to his citizenship and good character. No common carrier nor other person was permitted to bring liquor into the State, unless first furnished with a copy of this certificate. A supplemental act in 1857 defined intoxicating liquors to mean "all spirituous, malt, and vinous liquors." By this act the manufacture of cider or wine from fruit grown "by the manufacturer" was authorized.

In 1858, to suit the Germans, the law was so modified as to exclude from the definition of intoxicating liquors beer and domestic wine. The manufacture of beer was authorized, also of wine from fruit grown "in the State." With the passage of this act the first period of prohibition in Iowa came to an end. The beer and wine saloon was now recognized as a legitimate institution. It is to be observed that this was a concession to the foreign element in the population of the State, and that it was made for purely political reasons. The sale of beer was regarded by the party in power as a less evil than the risk of defeat at the polls, and the consequent possible inclusion of Iowa with the States which might, for the sake of peace, consent to the extension of the area of slavery. This was, evidently, the controlling consideration which secured the passage of the measure. An additional motive of minor importance was the desire to encourage foreign immigration. An immigration association held the title to vast tracts of land in the northwestern portion of the State, and had persuaded the legislature to make an appropriation for the payment of immigration agents, who circulated in Germany and Sweden documents setting forth the adaptability of Iowa soil for the growth of barley and grapes.

In 1859 the prohibitory law, even with this concession, was attacked by the Democratic State Convention as "inconsistent with the spirit of a free people, unjust and burdensome in its operations, and wholly useless in the suppression of intemperance." In 1866 the party demanded the repeal of the law. In 1867 it avowed itself in favor of a "well-regulated license law;" in 1869 it pronounced the Maine law "a disgrace to the statutes of Iowa." During all this time no other party took any position on the question. The Republicans ignored it; the Prohibition party had not yet come into being. The struggle for prohibition, on the one hand, and for a general license law (with or without

local option), on the other, went on, for a dozen years or more, in the General Assembly, with no very important legislative result. The Civil War and the problem of "reconstruction" absorbed a large portion of the political energies of the people of the State. In 1862 the principle of liability, on the part of the owner of premises used as a dramshop, for damages growing out of the traffic, was incorporated in the statutes. The liquor-dealers of the State had by 1867 come to have $2,000,000 invested in the trade. The House committee on the suppression of intemperance, while it was for prohibition in sentiment, yet admitted that "intemperance has steadily and alarmingly increased during the past five years," and attributed the fact largely to the Civil War. The Liquor Dealers' Association had raised by assessment a fund to be employed in fighting the law. That association made itself responsible for taking the liquor question into state partisan politics, by the adoption of the following resolution in 1866: —

"Resolved, That at the coming election we will support no candidates for state or county offices who do not pledge themselves in writing to favor the repeal of the prohibitory liquor law and the enactment of a judicious license law in its stead, but will do our utmost to defeat the candidates opposed to said measures, regardless of party issues."

The answer to this challenge was a petition with 40,000 signatures for prohibition, and an act empowering incorporated towns and cities under special charters to "regulate or prohibit the sale of intoxicating liquors not prohibited by state law," including beer and wine, and to "impose a tax on such sale."

In 1870–71 the warring factions compromised upon a local option measure, which was subsequently held by the Supreme Court to be unconstitutional.

The struggle continued, with various changes in the law, till 1874–75, when the prohibitionists concluded that the

time had arrived for independent party action. They met in convention. They scored the Democrats for favoring license, and the Republicans for refusing to adopt a resolution opposed to the repeal of the prohibitory law. They declared that "the temperance people of Iowa are, by this action of these political parties, forced to seek the promotion of their objects by such organizations and combinations as may prove most effective for the success of the temperance cause, without reference to previous political affiliation." They then put a ticket of their own in nomination and cast at the next election 1,397 votes. No immediate legislative result followed. But in 1877, the Democrats having proposed that the moneys received for liquor licenses should be paid into the school fund, the new party declared that the evil of intemperance "has long since assumed a political form, and can never be eliminated from politics until our legislatures and courts accomplish its entire overthrow and destruction." At the following election it polled more than 10,000 votes. The situation was serious, and the politicians took the alarm. In 1878 the Republicans resolved that "personal temperance is a most commendable virtue in a people, and the practical popular movement now active throughout the State for the promotion of temperance has our most profound respect, sympathy, and approval." That year, the Republican candidate for secretary of state was elected, in spite of a fusion between the "Greenbackers" and Democrats, but by a margin of only 8,000. From this moment it became the most ardent wish of the Republican party leaders to get the temperance question "out of politics."

It is impossible to write the history of prohibition in Iowa without perpetual reference to the political aspects of the controversy. This is because it in turn affected party action and was affected by it; the two were inseparable.

It might almost be entitled an account of an episode in the history of the Republican party. The course of the Democratic party was less influenced, for the obvious reason that its attitude to prohibition was determined by its fundamental political convictions. The Republican party had, as such, no convictions on the subject; it temporized with the movement, sought to take advantage of it, and to restrain it within bounds. It was indifferent or hostile to it, when it was weak; subservient, when dangerous. But it would be unjust to suppose that the only forces at work during this memorable period were ambition and self-interest. Political trickery and hypocrisy in the methods pursued were strangely blended with sincere and noble aims. To the ardent friends of prohibition their cause represented the triumph of the spiritual over the animal elements in human nature; it represented self-control and self-denial, the abolition of drunkenness, the salvation of the drunkard and his family, the deliverance of their own and their neighbors' posterity from the blight of an ungovernable appetite, and therefore the decline of pauperism, vice, and crime. The opponents of prohibition, in so far as they were actuated by principle, regarded the attempt to create habits of sobriety by coercion as a threat, unjustifiable in itself and perilous to human freedom. They especially detested the cowardice and falsehood which led so many men to profess prohibition principles and indulge in secret potations, the fanaticism which pretended that the use of alcohol was in itself sinful, and the moral confusion of ideas which transferred the responsibility for its use from the purchaser to the man from whom he bought it.

The campaign of 1877, at which the third party cast 10,000 votes, thereby putting John H. Gear, the Republican candidate for governor, in the mortifying position of receiving 674 fewer votes than the combined opposition to him, is locally known as the "Jessup" campaign, because

Dr. Elias Jessup was the Prohibition candidate for governor. Only the year before the Republicans had had a majority of 50,000 over all opponents. Governor Kirkwood's majority in 1875 had been 30,000. The Republicans had most to lose and were in greatest danger. Accordingly in 1879 they "hailed with pleasure the beneficent work of reform clubs and other organizations in promoting personal temperance," and, "in order that the question of prohibition may be settled in a non-partisan manner," they favored the submission to the people, at a special election, of a constitutional amendment prohibiting the manufacture and sale of all intoxicating liquors. The Democrats were "desirous of promoting temperance, and, being opposed to free whiskey, in favor of a judicious license law." The General Assembly in 1880–81 adopted a joint resolution proposing this amendment to Article I. of the State Constitution, and referring it to the succeeding General Assembly: —

"No person shall manufacture for sale, or sell, or keep for sale, as a beverage, any intoxicating liquor whatever, including ale, wine, and beer. The General Assembly shall by law prescribe regulations for the enforcement of the prohibition herein contained, and shall thereby provide suitable penalties for the violation of the provisions hereof."

Vigorous opposition was made to the resolution, but to the mass of arguments arrayed against it the Republicans, with few exceptions, made no reply, except to declare that they were bound by their pledge, and to pass the resolution.

When, in 1882, this amendment again came up for ratification by the General Assembly, the Brewers' Association submitted a written protest asserting that there were then about 140 breweries in the State, malting 250,000 barrels of beer annually, and that the amount permanently invested in the business was about $4,000,000 — a very extravagant estimate. An unsuccessful attempt was made to secure from the House Judiciary Committee a report

whether the adoption of the amendment would involve the State in the payment of damages sustained by the owners of property used for the manufacture of spirituous, malt, and vinous liquors. At that time there had just been built, at Des Moines, the International Distillery, owned by Mr. John S. Kidd and not a member of the Western Export Association (commonly known as the "Whiskey Trust"). The city of Des Moines had agreed to exempt this property from taxation for five years. The Senate adopted an explanatory resolution (which could have no legal effect), declaring that the prohibitory amendment would apply to domestic traffic only, but place no restriction upon the manufacture of liquors for export. It is somewhat significant that the prohibitionists in the Senate voted for this resolution.

The prohibitory amendment was voted upon at the general state election in June, 1882, when it was adopted by a majority of 29,759. The vote for secretary of state at the same election showed a Republican plurality of 38,185. The total number of votes on the amendment, compared with the total cast for all candidates for secretary of state, shows that 11,171 voters refused to go on record for or against the amendment. Nevertheless it received 6,385 more votes than the Republican candidate, and the majority in its favor exceeded his majority by 23,941. Undoubtedly many Republicans abstained from voting or voted against the amendment. It is probable that it received some Democratic votes; but the figures do not, upon their face, support the theory subsequently advanced by Republican anti-prohibitionists, that it was carried by Democratic votes, insincerely cast, with the design to throw the odium of its passage upon their political adversaries.

The governor issued his proclamation announcing the adoption of the amendment. The liquor interest, however, did not propose to yield without a struggle. In various cases

tried by the inferior courts the claim was made that the amendment itself was unconstitutional. What is known as the "Davenport" case,[1] which was a test case, both parties being hostile to the amendment, was tried before the District Court in Scott County, and the decision was adverse to the amendment. The case was carried to the Supreme Court, where the arguments turned on the wording of the resolution of submission as adopted by the General Assembly. The resolution as passed by the House did not verbally correspond to the resolution as passed by the Senate and voted on by the people. It was contended by the adversaries of the amendment that this disagreement was such a want of conformity to the method prescribed in the Constitution for its own amendment as to render the proceeding null and void; and in an elaborate opinion, rendered January 18, 1883, the Supreme Court sustained the objection.

The consequence of this decision was an agitation which shook the State from the centre to the circumference. The State Temperance Alliance and the State Temperance Association joined in a call for a State Prohibition Convention. This convention formulated a request to the governor to call an extra session of the Legislature for the submission to the people of a new prohibitory amendment and for the immediate enactment of a prohibitory law. This the governor declined to do, on the ground that the emergency was not such as to constitute "an extraordinary occasion," and that amendments to the Constitution cannot legally be proposed save at a regular session. In the next Republican convention Mr. Kasson, the temporary chairman, said: "In the great and unending debate between the claims of Iowa homes and the demands of Iowa saloons, the Republican party, enlightened by and obedient to the popular verdict rendered just one year ago

[1] Koehler and Lang (brewers) *v.* John Hill (a saloon-keeper).

to-day, ought not, cannot, and will not take the side of the saloon." Mr. Manning, in accepting the nomination for the lieutenant-governorship, exclaimed: "Republicanism means protected homes and firesides, — a schoolhouse on every hill and no saloon in the valley." This last phrase became a national prohibition war-cry. The Democratic party favored "a well-regulated license law."

In the campaign which followed, the State Temperance Alliance, with which the State Temperance Association had been consolidated, took a leading part, seconded by nearly all the Protestant churches. The "Third Party" made no separate nominations but supported the Republican ticket.

In the next General Assembly, at "the most exciting session in the history of Iowa legislation," an act, known as the Kennedy bill, was passed, which was intended to secure total prohibition and to incorporate the prohibitory amendment in the statutes. The Brewers' Association undertook to test the validity of the act. The State Temperance Alliance issued an appeal for the formation of auxiliary county alliances throughout the State to aid in its enforcement. Many saloon-keepers voluntarily went out of business. Others were prosecuted. Resistance was made both in and out of the courts. There were mobs and riots at various places during the summer, especially at Burlington and Iowa City. At Burlington an attempt was made to blow up with dynamite the residence of the prosecuting attorney; a mob threatened a prominent merchant who had filed information against two saloon-keepers. At Iowa City an informer's house was stoned, and a rope left hanging on a lamp-post near by, with a placard bearing the inscription, "To the informer — death!" On the day before the trial an attorney for the prosecution was seized, stripped, and his body was coated with brewers' tar; a mob pursued him to the residence of the magistrate before whom the suit was

brought, and there sought to kill him. This mob broke up the court, held possession of the town for three days, and it was nearly a week before any arrests were made. In Des Moines there was no popular disturbance, but two saloon-keepers, who were forced to close their doors, posted notices, of which one read: "Convicted before guilty. Writ of injunction served on this building to restrain the sale therein of any intoxicating liquors, while no such charge has yet been proven in any court." The other: "Closed by writ of injunction, by virtue of a law passed by a Republican legislature, signed by a Republican governor, issued by a Republican judge, prosecuted by a Republican sheriff, — a hired spy and informer, — served by a Republican deputy sheriff, and sworn to by hirelings." These incidents sufficiently illustrate the temper of the times.

The first of the notices just quoted was posted by Louis Fritz. The temporary injunction of which he complained was issued September 24, 1884, by the Circuit Court of Polk County, notwithstanding the objection of his attorneys, who claimed that a temporary injunction was not, upon the showing of the petition in the case, authorized by the statutes of Iowa nor by the rules of chancery procedure; that the court had no jurisdiction of the matters therein set forth — the same, if true, constituting a violation of the criminal law; that the defendant was entitled to a trial by jury; and that the section of the Code under which the suit was brought was unconstitutional, since it assumed to deprive a citizen of liberty and property without due process of law, and to subject him to punishment by fine and imprisonment summarily, without the intervention of a grand jury or trial by jury according to the course of the common law. An appeal to the Supreme Court was taken. The Supreme Court, in its decision, announced March 17, held that the statute was not contrary to the Bill of Rights; that a temporary injunction might properly

issue in advance of trial upon the criminal charge; and that the purpose of such injunction was not to punish the alleged culprit. The action of the lower court was sustained.

In addition to the resort to violent methods of resistance and the appeal to the courts, in some counties the boards of supervisors made free use of the power vested in them to grant permits for the sale of liquor for the lawful uses specified in the statute, under the color of which permits liquor was sold for unlawful uses. In other counties the law was openly defied and set at naught by the granting of licenses, presumably by authority of the section of the general municipal incorporation act conferring power upon municipal corporations to regulate or prohibit the sale of liquors whose sale is not forbidden by law — although, under the new act, the sale of all liquors as a beverage was in fact prohibited. The City Council of Keokuk, on the Mississippi River, passed an ordinance, for example, permitting the sale of "temperance drinks." Sioux City, on the Missouri River, adopted a "tavern ordinance," under which saloon-keepers were obliged to pay a license fee of $1,000 a year. At a meeting of mayors in Des Moines in December, 1885, Mayor Davis said that Keokuk had, when the act went into effect, sixty-nine saloons, which paid into the city treasury an annual revenue of $14,500. Within sixty days thereafter, owing to the removal of the tax and the withdrawal of municipal control, the number increased to ninety. A fight ensued between the "Law and Order League" and the "Personal Liberty League," in which the latter gained the victory in the local courts. Thereupon the city imposed a $400 license tax, and the number of saloons fell to forty, the annual revenue from which was $16,000. The mayors' convention adopted a memorial to the legislature, one of the statements in which was that in twenty-three cities named, the number of saloons, which before the passage of the act was 866, was now 1,436.

The indifference and hostility of the local officers, municipal and judicial, which rendered the act in so many counties practically a nullity, and the trouble and expense to which the friends of prohibition were everywhere put, in order to reap the practical fruit of their victory at the polls and in the legislature, created a demand on the part of some of them for a State Constabulary to initiate and press prosecutions for unlawful sales, even in the rebellious counties; but there has never been a time when so drastic a remedy has had sufficient popular support in Iowa to admit of its application. One difficulty in the way of the enforcement of the law was the refusal of juries, in many cases, to render a verdict of guilty, even where the evidence for the prosecution was convincing.

The feeling engendered on both sides by the events above alluded to, and by many other incidents, was intense. It divided friends, neighbors, and even families. It can be compared only to the animosities in the Border States at the outbreak of the Civil War. Both sides prepared for the decisive struggle which occurred in the General Assembly of 1885–86. That the law had been enforced with some degree of efficiency in certain districts, chiefly rural, was not denied. Of 420 prosecutions initiated in 93 counties, 372 had resulted in conviction. Of 1,085 saloons in certain counties, 701 had been closed. These figures are taken from the report made to the State Temperance Alliance at its annual meeting in January, 1886. The bold resistance made to enforcement had exasperated and augmented the prevalent sentiment in favor of prohibition to a high degree. Money was freely expended by both sides at the election in 1885, the result of which was a decided majority of prohibitionists in both branches of the Twenty-First General Assembly.

The opposition exhibited its usual courage and persistence in the introduction of various license measures, some

of which embodied the principle of local option and authorized a popular vote on the question by counties or by municipal corporations. All these failed. The majority was determined to find a way, if possible, to make prohibition a reality. The bill finally agreed to was known, from its author, as the Clark bill. In an impassioned speech in its favor, Senator Clark dramatically exclaimed: "I am willing to give up my homestead and every dollar which I possess, to take my wife and sweet children, and to go out into the highway, barefooted, as a beggar, if the sacrifice would shut up these moral sinks of Iowa." It passed the Senate, in 1886, by a vote of 29 to 16, and the House by 56 to 43 — a majority of 13 in each branch. It had the effect desired, that of closing the doors of the saloons. The essential features of this act are as follows: —

"Any citizen of the county may institute proceedings for the abatement of a liquor nuisance in the name of the State, if the district or county attorney refuse or neglect to do so. Evidence of the general reputation of the place shall be admissible for the purpose of proving the existence of the nuisance.

"If it appears to the satisfaction of the court that the nuisance complained of actually exists, a temporary injunction shall be granted. The court shall have power to try summarily and punish the party found guilty of violating any injunction granted under such action.

"The penalty for keeping a nuisance shall be a fine not less than $300 or more than $1,000; the person convicted to stand committed until the fine and costs are paid.

"The liquor found on the premises shall be seized and destroyed; and all movable property be removed and sold. The building shall be kept closed for one year, in order to prevent its occupation for saloon purposes.

"If the owner of the premises pay all the costs of proceeding and give a bond with sureties, in the full value of the property, conditioned that he will immediately abate the nuisance, and prevent the same from being established or kept therein within the period of one year, the judge may order the premises to be delivered to the owner, and the order of abatement is then canceled.

"The finding of intoxicating liquors, except on the premises of one legally authorized to sell the same or in a private house, shall be presumptive evidence of illegal sale.

"On a second conviction for keeping a liquor nuisance, or for violating the law while under an injunction, the penalty shall be imprisonment in the county jail from three months to one year.

"Common carriers, or any other person, who knowingly bring into the State for others, or transport from place to place within the State, any intoxicating liquors without first having been furnished with a certificate under seal from the county auditor of the county to which the liquors are consigned, certifying that the person to whom it is brought is authorized to sell liquors in the county, shall be liable to a fine of $100. The offense shall be held to have been committed in any county of the State through or to which the liquors are transported, or within which they are conveyed from place to place. Any peace officer may under warrant open any package suspected of containing liquor, either before or while the same is being transported.

"For all fines and costs or judgments rendered for violation of this act, the personal and real property" [both of the liquor-seller and of the owner of the premises used as a dramshop] "shall be liable; and all such fines, costs, and judgments shall be a lien upon such real estate until paid."

This bill, as will be seen, embodies three principles, namely, that liquor-selling, contrary to law, is a nuisance; that it may be proceeded against by injunction and punished as contempt of court; and that judgments rendered can be collected of the owner of the premises.

A bill introduced at the same session for the creation of a State Constabulary did not come to a vote. A "pharmacy bill" passed, of which it is necessary to state the leading feature, because it had the result of transferring a large share of the saloon trade to the drug-stores. The Iowa Pharmaceutical Association had long wished a law which "would protect an honorable profession from the evils growing out of the indiscriminate sale of intoxicating liquors by so-called druggists." The legislature had created,

in 1880, a board of pharmacy commissioners, by whom pharmacists were to be examined and registered; the keeping of a drug-store by persons not thus registered was made a misdemeanor. It was made illegal for any licensed or registered pharmacist to retail or sell or give away any alcoholic liquors or compounds as a beverage. For repeated violations he was liable to have his name stricken from the register. But it was no longer necessary for a druggist to secure a permit or to file the returns required by permit-holders. In 1884 this act was materially amended. The obtaining of a permit was again made obligatory; the applicant was required to present to the county board a petition signed by one fourth of the freeholders in his township, town, or ward, and to procure shipping permits, without which common carriers could not deliver liquors to them. They must make monthly returns, in detail, to the county auditors, and the returns must be accompanied by duplicate applications executed by each purchaser. These provisions were retained in the pharmacy act of 1886; and in addition it was enacted that "pharmacists whose certificates of registration are in full force and effect *shall have the sole right* to keep and to sell, under such regulations as have been or may be established from time to time by the commissioners of pharmacy, all medicines and poisons, including intoxicating liquors only for the actual necessities of medicine."

The operation of these two statutes — the Clark act and the pharmacy act — was precisely what might have been expected. The ease with which proceedings could be instituted in equity against owners of property rented for saloons, and the tremendous effect of injunctions granted against them, rendered it practically impossible for saloon-keepers to hire premises to carry on their business. A general suspension of the saloon traffic was inevitable. Forty saloons closed in Des Moines in a single fortnight.

In Burlington 113 saloons were voluntarily closed in less than a month. The same condition was general throughout the State. If prohibition was aimed exclusively at the saloon, even the enemies of prohibition were compelled to acknowledge that at last it had accomplished its purpose.

But although this source of supply was shut off, the demand for stimulants was precisely what it had been before the passage of the act. The most immediate, obvious, and respectable source of supply was the drug-stores, which immediately began to do a thriving trade in liquors, purchased ostensibly for medicinal use, but in reality to be consumed, if not in the shop, at least at home, as a beverage. In a paper read before the State Pharmaceutical Association in March, 1887, Mr. Norman Lichty humorously set forth the embarrassment of the honorable and law-abiding pharmacist in the position in which he found himself, between his customer and the stringent provisions of the pharmacy act. "The law of human necessity has forbidden the elimination of alcohol from the pharmaceutical laboratory; and the law of Iowa has made the pharmacist the sole authorized dispenser of this class of poisons. On one side of us is the law, holding aloft a placard inscribed 'Here is the only place where whiskey can be legally purchased;' on the other are our patrons, who threaten to take their custom elsewhere, if we refuse to risk the consequences of the violation of law at their request. . . . Many of our customers are in the habit of determining for themselves when they need a cathartic, a tonic, or a sedative. They claim the same right to use their own judgment in regard to liquors. Shall I reply with smiling alacrity to the wants of dyspepsia and bile and malaria, and flatter their victims on their choice of remedies, and then turn to my colicky friend and insult his intelligence or wound his pride by bidding him go and take a dose of cayenne pepper or ginger tea?"

There were druggists whose conscience was not over-sensitive; or the chink of coin was an effective solace for its wounds. Some moved forward the partition which divided the public shop from the prescription case and counter in the rear, thus giving room for the organization of an extemporized and irregular bar, entered, possibly, by a swinging door, to which friends (and strangers who succeeded in disarming suspicion) were freely admitted. Many ex-saloon-keepers opened drug-stores, in which a beggarly array of bottles and jars, with cheap but gaudy chemical liquids and powders, served as a blind; the real business of the place was carried on in the back room. They hired registered and licensed pharmacists as clerks, or took them into partnership. The anger of the prohibitionists can readily be imagined. As Mr. Lichty truly said: "The fact is that enormous quantities of liquors are sold to consumers in this State by the traveling salesmen of Eastern houses. These agents require no declaration of the purpose for which the liquor is required; they have no care whether it is to be used for medicine, or whether the purchaser is a minor or in the habit of becoming intoxicated. But the pharmacist is held responsible for it all." The pretense of insuring obedience to the law by requiring druggists to file detailed accounts of their purchases and sales, verified by the original statements of the purchasers "that they were of age, not in the habit of using intoxicating liquors, and did not design using them as a beverage," was farcical in its transparent simplicity. Guests at hotels could order wine or beer for the table on a "pharmacy blank." Fraudulent returns could be filed, without a possibility of the fraud being detected. Fictitious signatures were easily attached to the blanks which customers were supposed to sign, or the amount purchased raised, with or without the connivance of the purchaser.

But the drug-store was by no means the only source of

supply. Secret and illicit sales were common. The amount of supervision and espionage necessary to prevent them was beyond the reach of municipalities, even where there was a disposition to suppress illicit traffic. The schemes adopted in order to avoid detection were varied and ingenious. The man who went around with a concealed bottle upon his person, and dispensed drinks of the vilest composition in back alleys, was known as a "boot-legger." Few dealers sold openly. They had a store of liquor in one place, from which hidden pipes conveyed it to another, where it was dispensed; the faucets through which it was drawn were cunningly placed, out of sight, in the most extraordinary places. Or the liquor was in a cellar or sub-cellar, beneath a secret trap-door, and was sent up, on receipt of the price, by means of a concealed hoist or dumb waiter; or a step in a stairway was so constructed as to lift up, on hinges, and reveal a well-filled glass; or the glass was sent in through a partition wall by means of a revolving closet. There was no end to these devices, in most of which the customer did not see the man who supplied the liquor, nor the dealer the man who drank it. But there were also open bars in barns and stables; and mysterious invitations were extended to the thirsty-looking to enter at the front or back door of private dwellings, generally of a mean sort, in the outlying suburbs of the larger towns; the women in these houses were not always chaste. The practice of "treating" became also a popular method of avoiding the necessity for violation of the law. Closets in offices and counting-rooms were unlocked for the benefit of favored guests, the supply in which had been regularly imported, we may suppose, from outside the State.

In rural and temperate communities these evils did not exist. The question is whether they would have existed there, under a license law. Some think that they would, others that they would not. But the fact is indisputable

that the open saloon was nearly everywhere wiped out. The anti-prohibitionists said that, in driving the bottle out, the prohibitionists had driven it in. The prohibitionists replied that the abolition of the saloon was a clear gain; that home drinking would never, under a prohibitory law, become the general rule; and that the illegal sale of stimulants must be suppressed.

Meanwhile, the breweries were not suppressed. They insisted upon compensation for the pecuniary loss caused by the law. They fought it in the courts upon this ground, and held on, pending the final decision in the Supreme Court of the United States, expecting ultimate reimbursement. The case in which this decision was rendered, December 5, 1887, originated not in Iowa but in Kansas. The finding of the court of last resort was in favor of the Kansas prohibitory law. The questions raised in the Iowa cases were very nearly identical. The court held that compensation to brewers and distillers was not necessary. The promulgation of this opinion was followed by an immediate cessation of the manufacture of malt liquors in Iowa.

The attitude of many prohibitionists to the manufacture of whiskey by the International Distillery at Des Moines had furnished their opponents with much material for sarcastic comment. The distinction between the moral guilt of manufacturing for export and for home consumption is too fine for a plain man to comprehend. Yet there were men with whom the financial argument in favor of manufacture for export outweighed the love of ethical consistency. The annual product of this distillery was about 4,000,000 gallons of alcohol, high wines, and cologne spirits, in making which it afforded a home market for about 1,000,000 bushels of corn, rye, and malt. It fed about 4,000 head of cattle. The revenue paid by it into the United States treasury was very nearly $1,750,000, and its

pay-roll was more than $125,000 a year. Sales were made either through an agent in the city of New York, or upon orders by mail or telegraph direct from customers. In either event the alcohol was shipped, and a draft drawn upon the purchaser for the amount, which, with bill of lading attached, was forwarded through a local bank. These drafts were, in all cases, drawn upon persons outside the State. Beer was not manufactured in Iowa for export; hence it was asserted that the prohibitory law crushed the brewer but protected the distiller, although, in fact, the law was the same for both. Either could manufacture for export, or for legitimate use (not as a beverage), within the State. But the black smoke from the tall distillery chimney was blown into the faces of the friends of the law. Since this distillery was not a member of the Western Export Association, the trust was anxious to close it. The law gave that organization its opportunity. A petition was filed in the Circuit Court by two prohibitionists, asserting that the distillery was a nuisance, and praying for its abatement. The judge refused the injunction, but it was granted on an application to the District Court. The Supreme Court of the State issued a supersedeas, suspending the injunction for sixty days, in order to allow the distillery to dispose of its cattle and make the necessary preparations for closing. Meanwhile, the "capacity" was sold to the whiskey pool for $80,000 per annum, and the establishment shut down. At the next term of the State Supreme Court a decision was rendered, sustaining the action of the District Court, in which it was held that the manufacture of intoxicating liquors for export, for any but the four specified legitimate uses, is in violation of the statute, and that the statute is not repugnant to the Constitution of the State nor in conflict with the Federal Constitution. On an appeal to the Supreme Court of the United States, the consistency of the law with the Federal Constitution was affirmed, in

October, 1888. The property was in the end sold, and converted into a malt-house.

The closing of this distillery was the occasion of considerable dissatisfaction on the part of Republicans who were not zealous prohibitionists, and even of some prohibitionists who did not care to carry on a temperance crusade beyond the borders of the State. The popular disapproval of the methods adopted for the enforcement of the Clark law was very pronounced. It was charged that its enforcement had "fallen into the hands of a few corrupt constables and their allies, — a few complacent justices of the peace, — and that the prosecutions carried on by them were for private gain and had impoverished the county treasury." There was so much truth in this charge, that some of the worst offenders were, in 1888, indicted. There were also indications of a diminution of the strength of the Republican party at the polls, which many Republicans attributed to its attitude on prohibition. The Republican majority over the Democratic candidate, which in 1881 was 59,984, had fallen in 1885 to 6,986; while the Republican majority over all other candidates, which in 1881 was 31,858, had fallen in 1885 to 5,211. It was therefore said that prohibition had cost the Republican party 25,000 votes. The law of 1886 was so much more stringent than that of 1884, that it was supposed by many, especially those who did not very heartily approve of it, to foreshadow further losses in 1887, and this anticipation was realized.

At the election that year, the anti-prohibition or so-called "Liberal" Republicans in Polk and Marshall counties nominated two independent candidates for the legislature. The Democrats indorsed them, and the "fusion" was partially successful. Mr. A. B. Cummins (the one of these two who was elected) declared himself a Republican, but not a prohibitionist. Early in 1890 an "anti-saloon" Republican conference met in Iowa City, which resolved to

call a general convention of Liberal Republicans at Des Moines in April. Mr. Cummins was made chairman of its Executive Committee. In 1892 he was elected temporary chairman of the State Republican Convention, which elected him by acclamation delegate-at-large to the National Convention; in the Presidential campaign of that year his name was at the head of the electoral ticket. The spectacle of a successful revolt within the party, the election of a Republican anti-prohibitionist to the legislature by the aid of Democratic votes, and the subsequent honors paid to the leader of this revolt, substantially encouraged the anti-prohibition Republicans, and thus contributed to prepare the way for the events which followed.

About this time a new method of circumventing prohibition was tried, with great temporary success. The liquor interest established "delivery depots" or "original package houses." The Code forbade common carriers to bring liquor into the State without first having been furnished with a certificate, signed by the proper official, that the consignee was authorized under the law to sell liquor, not to be drunk as a beverage, but for legitimate uses. In the case of Bowman *v.* The Chicago and Northwestern Railroad, the United States Supreme Court held that this provision was void, because it was an interference with the freedom of commerce between the States, a matter over which the federal government has, under the Constitution, exclusive jurisdiction. The decision in this case was rendered March 19, 1888.

The Code contained another section, in which it was said: —

"Nothing in this chapter shall be construed to forbid the sale, by the importer thereof, of foreign intoxicating liquor, imported under the authority of the laws of the United States regarding the importation of such liquors, and in accordance with such laws: *Provided*, that the said liquor, at the time of

such sale by said importer, remains in the original casks or packages in which it was by him imported, and in quantities not less than the quantities in which the laws of the United States require such liquors to be imported, and is sold by him in said original casks or packages and in said quantities only."

The section quoted would, under the decision of the Supreme Court, have authorized sales in original packages without any restriction as to the use to be made of the liquor. But the pharmacy act of 1888 formally repealed this section. The constitutionality of such repeal was questioned. Proceedings were instituted against the original package houses. Such a house was sought to be enjoined in the Superior Court of Keokuk County as a nuisance, the dealer not being a registered pharmacist nor the holder of a permit from the Board of Supervisors. The court held that beer sold by the case was sold in the original package, and that such sale was protected by the laws regulating interstate commerce; but that whiskey put up in pint or quart bottles, and packed in boxes or barrels for shipment, if the importer opened the barrels or boxes, took out the bottles and placed them upon a shelf for sale by the bottle, was liable to confiscation; that the opening of the original package completed the transaction as a matter of interstate commerce; and that subsequent dealings with the liquor were governed by the statutes of Iowa. This case was taken by appeal to the Supreme Court of the State, and was the occasion of a decision (February 7, 1889) in which it was held that "when property purchased in another State is transported to this State and there delivered to the purchaser, the transaction, in so far as it is governed by the provisions for the regulation of commerce between the States, is at an end. The sale and delivery are then consummated, and the property becomes at once subject to the laws which the State has enacted governing its use or disposition." Hence, the sales of both

beer and whiskey, as conducted by the defendant, were illegal, and subjected him to punishment for nuisance.

In the case of Leisey *et al. v.* Hardin, the plaintiffs, who were brewers in Peoria, Illinois, shipped beer in kegs and cases to an agent at Keokuk, by whom it was sold in unbroken packages as received. The beer was seized. The Superior Court held that the statute forbidding the sale of liquor by an importer in the original package was contrary to the Constitution of the United States and void. The Supreme Court reversed this judgment, October 4, 1889, following the precedent established in Collins *v.* Hills. Subsequently the Supreme Court of the United States reversed the judgment of the Supreme Court of Iowa. Its decision, rendered April 28, 1890, was that Leisey *et al.* "had the right to import into Iowa beer to be sold in original packages; and they had the right to sell it, by which act alone it would become mingled in the common mass of property within the State. Up to that time, in the absence of Congressional permission to do so, the State had not power to interfere, by seizure or any other action, in prohibition of importation or sale by the non-resident importer."

This decision ushered in what was facetiously termed "the reign of the cork-screw." All the old evils of the saloon system returned with augmented violence. Many towns in the State suffered open drunkenness, that had been free from it for years.[1]

[1] See description of the condition of the State, in the decision rendered by Judge Caldwell in the United States Circuit Court, E. D. Arkansas, October 31, 1890, *in re* Van Vliet. "The retail liquor traffic was practically reëstablished, and in many cases by the most irresponsible and unsuitable persons, who were not citizens of the State and were indifferent to its welfare. Peaceful and quiet communities, from which the sale of liquor had been banished for years, were suddenly afflicted with all the evils of the liquor traffic. The seats of learning were invaded by the liquor-vender, and the youth of the State gathered there for instruction were corrupted and demoralized, and disorder, violence, and crime reigned where only peace and order had been known before. The invaded

Thereupon Congress passed a bill (introduced by Senator Wilson of Iowa) in the following words: —

"That all fermented, distilled, and other intoxicating liquors or liquids transported into any state or territory or remaining therein shall, upon arrival in such state or territory, be subject to the operation and effect of the laws of such state or territory, enacted in the exercise of its police power, to the same extent and in the same manner as though such liquids or liquor had been produced in such state or territory, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise."

It was estimated that this act closed 15,000 "original package holes" in Iowa. There was scarcely a town in the State in which they had not been opened, between April 28, the date of the Supreme Court decision, and July 22, the date of the passage of the Wilson bill — a period of three months, less one week.

The validity of the Wilson bill was disputed on various grounds, principally because it "could not vivify a dead statute." This point was raised in an appeal from the Circuit Court of the United States for the District of Kansas, *in re* Rahrer. Rahrer was the agent at Topeka of a wholesale liquor house in Kansas City, Missouri. His attorneys argued that "an unconstitutional act is in legal contemplation as though it had never been passed; the Kansas statute prohibiting the sale of imported liquor was unconstitutional; if void when passed, it was still void." Furthermore, Congress itself, they said, could not allow the States to determine whether or not imported liquor shall be an article of

communities were powerless to protect themselves. They could neither regulate, tax, restrain, nor prohibit this traffic. The courts held, and rightly so, that the importer and vender of original packages was not subject to the state law, and that any application of the state law to him would be an invasion of his rights under the Constitution of the United States, until Congress, in the exercise of its power to regulate commerce, should withdraw the protecting shield of that instrument from original packages that had reached the State where they were destined for consumption or sale."

commerce; if it could, then it might delegate its entire commercial power to the States. The Supreme Court decided that the Kansas prohibitory law was an act within the competency of the State to pass, but that it could not operate to prevent the sale of imported liquor prior to the passage by Congress of the Wilson bill; that bill, however, removed the impediment to the enforcement of the state laws in respect to imported packages in their original condition, created by the absence of a specific federal statute; it did not confer upon the State any power which the latter did not already possess, but simply allowed imported property to fall at once, upon arrival, within the local jurisdiction. Upon the publication of this decision, the original package houses of Iowa closed their doors.

The Republican Convention in 1888 congratulated the people of the State "on the temperance legislation . . . which has given to Iowa the best prohibitory law in the United States. To the credit of the Republican party . . . no backward step has been taken, and none will be taken, on a question so vital to the moral welfare of all our communities." It liked this phrase so well, that it said again, in 1889: "We reaffirm the past utterances of the Republican party of Iowa upon prohibition . . . upon which there should be no backward step." The Democratic Convention arraigned the Republican party "for changing the pharmacy laws, by which a great hardship and gross indignity has been imposed upon honorable pharmacists and upon all the people requiring liquor for the actual necessities of medicine." It again demanded the enactment of a carefully guarded license law, with local option by cities and towns.

In 1889 the Democratic party nominated for the governorship Horace Boies, an ex-Republican and an opponent of prohibition. Both parties professed to be strongly opposed to railway monopoly, and on this subject there was not enough difference between them to justify making the

issue prominent. Up to this time the railroads had taken an active part in state politics, and had sought protection at the hands of the party in power. The result had rather disappointed them. They therefore claimed to have changed their tactics, determining to keep out of politics and not influence their employees in favor of either party. This change of attitude on their part is said to have contributed to the election of Governor Boies, but he made his canvass as an anti-prohibitionist, everywhere forcing this issue to the front; and he was elected by a plurality of 1,573 over his Republican rival.[1]

Mr. Boies's election was regarded as an indication that the prohibition movement had lost favor with the people. It gave fresh courage to the independent or liberal Republicans, and rendered it impossible for the party to administer to them the discipline which it might otherwise have attempted. During the following session of the General Assembly, the anti-saloon Republicans held a meeting in Des Moines, which was presided over by Mr. George E. Hubble, a total abstainer and prohibitionist, who had voted for the constitutional amendment. He had also actively fought saloons in Scott County. But in his opening address he said that the law had been in that county a dismal failure. "The will of the people is against it. The officials elected are hostile to it. Grand juries composed of good men refuse to indict the guilty, in the face of the most overwhelming evidence. Petit juries refuse to convict or to find a verdict for damages in court actions under the law. Two hundred saloons, with open doors and with no effort at concealment, are selling in violation of the law. The City Council of Davenport resorted to the degrading method of evasion by taxing the saloons $100, and per-

[1] This is the view taken by Democrats and by "railroad" Republicans in Iowa, but not by "anti-monopoly" Republicans, who think that Governor Boies had the quiet support of the railway corporations; they make a point of his reduced majority when reëlected.

mitting the sale of 'beverages not prohibited by law.'" The resolutions adopted by this convention were strongly anti-prohibition. It declared that "the Republican party cannot justify its further support of the law as a party measure," and urged the General Assembly "so to amend the prohibitory liquor law as to give to communities that desire so to act the power, subject to a minimum license to be fixed by the legislature, to regulate the sale of intoxicating liquors through the medium of high license."

A resolution for resubmission of the constitutional amendment which was offered in 1890, both in the House and the Senate, was not adopted; but the pharmacy act of 1888 was repealed, and a substitute for it enacted, with many of the offensive features of the former law eliminated.

It was beginning to be felt by business men of all parties that the cost of prosecution under the prohibitory law was out of all proportion to the results attained. An investigation of the records of Polk County showed, for instance, that of $90,000 paid out during the first half of 1890, one third, namely, $30,451.23, had been paid for criminal expenses, of which $11,121.30 went to the justices, $11,201.33 to constables, $5,524.80 to witnesses, $181 to jurors, and $1,720 to attorneys; the bulk of this enormous cost was for criminal proceedings in liquor cases. The "State Register," commenting on this state of affairs, said: —

"At the present rate these justices and constables will have drawn $60,000 within the year, and still be unable to show a single place where they have stopped the illegal sale of liquor. They do not want the illegal traffic suppressed, for they are getting rich by it. The so-called enforcement of prohibition is nothing but a combination to plunder the county treasury. . . . Why have not the liquor-sellers been arrested? In many instances a single bottle of beer has been put on trial, but not often the men who had it. That lone bottle costs the people of the county seven dollars and a quarter, including fees to witnesses and tasters."

The Republican party nevertheless continued for another year to utter the same defiant note as in former years. The Democrats in 1891, encouraged by their success at the polls in 1889, ventured to include in their platform a declaration for license, omitting the former reference to local option. For this omission they were roundly denounced by the Republicans, who declared: "We recognize the fact that the control of the next legislature by the Democratic party means state-wide license, and the control of the next legislature by the Republican party means continued opposition to the behests of the saloon power through the maintenance and enforcement of law." This action was not had without strong opposition; a minority report on the platform was submitted, and rejected by a majority of only 11 votes.

The Democrats renominated Governor Boies, and elected him in 1891 by a plurality of 8,213; the aggregate majority against him was 5,024. The Union Labor party cast, at this election, more than 12,000 votes. The aggregate majority against the Republican party was 13,237.

From 1880 to 1891 the Republicans fell behind, at the polls, by more than 80,000 votes. True, the four years of Harrison's administration were years of Republican losses throughout the Northern States, where prohibition was not an issue. The year 1892 was the year in which Grover Cleveland was a second time elected to the Presidency. In face of that nomination, the Republican State Convention had not a word to say about prohibition. The Republican National Convention had said: "We sympathize with all wise and legitimate efforts to lessen and prevent the evils of intemperance and promote morality." The Republicans of Iowa affirmed that this ambiguous declaration was "broad enough and strong enough and all-sufficient as a basis of union," and said: "There is no test of fealty to the national Republican party other than adherence to its

fundamental principles announced in its national platform."

The "Wine and Spirit Gazette" sarcastically observed: "The temperance plank of the platform might with propriety have been adopted by any liquor dealers' association." The State Temperance Alliance issued a circular saying, "As an organization, we cannot, under our constitution, continue to support the Republican party." But the majority of 30,000 given by the State of Iowa for Mr. Harrison for President in November was the best evidence of the sagacity of the local Republican leaders. After the result was known, the "State Register" said editorially, "Over 30,000 Republican voters have returned to the fold. If there is any one who deserves credit for this result, it is Mr. A. B. Cummins."

The Republican convention of 1893 said: "Prohibition is no test of Republicanism." It relegated the whole subject to the General Assembly, "to take such action as it may deem best, maintaining the present law in those portions of the State where it is now or can be made efficient, and giving to other localities such methods of controlling and regulating the liquor traffic as will best serve the cause of temperance and morality." The Democratic candidate for governor, Mr. Boies (who ran for the third time), now received 174,660 votes, or 32,934 less than in 1891.

The year 1893 was characterized by a spirited discussion of the new legislation to be enacted in 1894. The idea of the mulct law was borrowed from Ohio, and was first suggested, in a crude form, by the editor of the Marshalltown "Times-Republican," who was an Ohio man. It was gradually formulated by persons who took part in the debate about it in the newspapers. The bill originated in the House, where it had a majority of eight; its majority in the Senate was only two. A Democratic senator, in explanation of his vote against it, said: "The purpose of

the bill is merely to relieve those in charge of the Republican machine from a perplexing and embarrassing situation. Their leaders have been compelled to submit to it, as the best concession they could get from the prohibition element. But it is a serious blow to prohibitionists. The Republican party has at last done what it so long declared that it would not do: it has legalized the saloon. The friends of the bill have tried to conceal the fact by the use of words, but the privilege attempted to be given is nothing less than license." A prohibitionist said of it: "It is to the Democratic bill as varioloid to small-pox." One member voted for it because "it does not in any way tend to local option." Another voted against it because he regarded it as "virtually a local option bill." Others would have preferred "a straight local option bill." Another, seeing no probability of securing the passage of a satisfactory local option bill, supported it, "deeming it a move in the direction of the regulation and control of the liquor traffic."

THE MULCT LAW.

The language of the sixteenth section of this act, "to tax the traffic in intoxicating liquors and to regulate and control the same" [approved March 29, 1894] is as follows: —

"Nothing in this act contained shall be in any way construed to mean that the business of the sale of intoxicating liquors is in any way legalized, nor is the same to be construed in any manner or form as a license; nor shall the assessment or payment of any tax for the sale of liquors as aforesaid protect the wrongdoer from any penalty now provided by law, except that on conditions hereinafter provided certain penalties may be suspended."

The essential features of the law are found in the first, seventeenth, and eighteenth sections.

The first section provides for the assessment of a tax of $600 per annum against every person, partnership, or corporation, other than registered pharmacists, holding permits, who are engaged in the sale of intoxicating liquors; this tax is assessed also against the real property and the owner thereof within or whereon such liquors are sold; and the tax is made a perpetual lien upon all property, both real and personal, used in the business or connected with it.

The seventeenth section, which applies only to cities of 5,000 inhabitants or more, makes the payment of the tax a bar to proceedings under the prohibitory law, but only upon compliance with specified conditions, as follows: The person who pays the tax is required to file with the county auditor a certified copy of a resolution by the city council, consenting to the sale of liquor, which must be accompanied by a written statement of consent from all the resident freeholders owning property within fifty feet of the premises where said business is carried on, and by a bond in the sum of $3,000, with two qualified sureties, neither of whom shall be surety on any other like bond; the said bond to be approved by the clerk of the district court and conditioned upon the faithful compliance with all the restrictions imposed upon the traffic by law. These restrictions, in addition to forbidding sales to minors, drunkards, intoxicated persons, graduates of the Keeley cure, and to persons whose near relatives, by written notice, forbid such sale, require that the sale shall be carried on in a single room, having but one exit or entrance, and that opening upon a public business street. The bar where the liquors are furnished must be in plain view from the street, unobstructed by screens, blinds, painted windows, or any other device. There must be no chairs, benches, nor any other furniture in front of the bar, and only such behind the bar as is necessary for the attendants. Gambling or gaming with cards, dice, billiards, or any other device, also music, dancing, and every other form of amusement or entertainment, are forbidden, either in the room where said business is carried on, or in any adjoining room or building controlled by the person, partnership, or corporation carrying on the business. No obscene or impure decorations or inscriptions, placards, or any such thing are allowed, nor may any female person be employed in the place. The hours of sale are restricted to the portion of the day between five o'clock in the morning and ten o'clock at night, and the place

must be closed on Sunday, on election day, on all legal holidays, and on the evenings of such days. But before the payment of tax can operate as a bar to prosecution under the prohibitory act, even where all of these conditions are complied with, there must first have been filed with the county auditor a written statement of consent signed by a majority of the voters residing in the city who voted at the last general election.

By the eighteenth section, in order that any city or town of less than 5,000 inhabitants may come within the provisions of the act, there must be first filed with the county auditor a statement of consent signed by sixty-five per cent. of all the legal voters who voted at the last preceding general election, residing within the county, outside of the corporate limits of cities having a population of 5,000 inhabitants or over; but no such statement of consent can be construed as a bar to prosecution in incorporated towns situated in townships of which less than a majority of the voters of the township, including the incorporated town, have signed the statement of consent, nor in any incorporated town in which a majority of the voters do not sign the said statement.

With the passage of this measure ends for the present the history of temperance legislation in Iowa. The only thing remaining to be said on the subject is that both houses agreed to a joint resolution to resubmit to a popular vote the constitutional prohibitory amendment.

THE RESULT OF PROHIBITION IN IOWA.

The prohibition experiment has probably never had a fairer test, nor a test under more favorable conditions, than in Iowa. It is an agricultural State with no large cities; the largest is Des Moines, which in 1890 had 50,093 inhabitants. The population is mainly Puritan by descent, with inherited Puritan habits and traditions. Public sentiment is, and has been from an early day, strongly opposed to intemperance. None of the surrounding States, with the possible exception of Missouri, has had so small a percentage of foreign immigrants. In consequence of the decision

by the Supreme Court that local option under the Constitution is barred, every voter has been forced to declare himself for general license or for prohibition. The prohibitionists have therefore been able to swell the number of their nominal adherents by representing that opposition to prohibition meant subserviency to the saloon. The cause of prohibition has had, besides, the inestimable practical advantage of an alliance, offensive and defensive, with the political party in power. More than that, it was for years the dominant faction in that party, dictating its platform, and controlling its legislation in opposition to the liquor interest. It held this vantage-ground for ten years, a period long enough to demonstrate the wisdom or folly of the attempt to restrain and govern an animal appetite by law. The end was defeat.

The fundamental obstacle to success was the difficulty of finding a solid ethical basis for the movement. When a political party formulates a declaration of principles and starts out, as the State Temperance Convention of 1885 did, with the bald assertion that "the manufacture and sale of intoxicating liquors as a beverage is a crime *per se*," it not only contradicts every established principle of law, but shocks the sentiment of justice, which cannot accept the doctrine thus enunciated without including in the same sweeping condemnation the man who buys as well as the man who sells wine or beer. If the movement, on the contrary, had been founded upon the doctrine that the State, in the exercise of its police powers, has the right to suppress the liquor traffic, and that its suppression is expedient upon the ground of public policy, its partisans would have made what seemed to many of them a fatal concession. Moderate men in the prohibition ranks explained that they aimed at nothing more than the closing of dramshops. They did not propose to deprive sober citizens of mature age of the right to regulate their diet. The attempt, how-

ever, to make and enforce a statutory rule broad enough to cover the case of the drunkard, and yet allow for the necessary exceptions, involved such inconsistency as to render the rule practically of little effect.

The two loopholes in the law were the pharmacist and the importer. The importer was protected by the federal Constitution; the State imagined that it could watch and control the pharmacist. But it soon appeared that the drug-store was even harder to regulate than the saloon, and that men would drink in a drug-store who would not, under a license system, have drunk at a public bar. The business of selling drugs became, in a city like Des Moines, more profitable than banking. Under the cloak of a pretended medical necessity — and in many cases even this flimsy subterfuge was lacking — liquor continued to be bought and sold as a beverage, even where there were no saloons. As to the importation of liquor, it required a special federal statute to bring the importer under the operation of the prohibitory law and prevent him from selling within the State, by the bottle, what he could buy outside and order shipped to his address in any quantity and in any sized packages that he pleased. The evil of the original package house for a few months was greater than that of the licensed saloon had ever been.

But these two sources of supply were inadequate to meet the demand. Two other methods of obtaining liquor in unlimited quantities were open to the thirsty and the lawless. There were counties in which the prohibitory law was boldly disregarded. Saloons continued to ply their forbidden trade without the slightest attempt at concealment, not only in river towns on the eastern and western boundaries of the State, but at various points in the interior. These saloons were at first unregulated, and paid no tax, but the communities in which they existed passed local ordinances subjecting them to slight restrictions, and com-

pelling them to contribute to the municipal revenue in defiance of the general statute. Or, if the authorities feared to go so far, they fined the retail dealers at stated intervals, and at other times let them alone, thus accomplishing by indirection the same result. But where public sentiment, on the contrary, sustained the prohibitory law, and an attempt was made by the authorities to enforce it, a contraband traffic was maintained in cellars and barns and alleys, and in houses on the outskirts of the towns, — a fugitive and skulking traffic carried on in the spirit and by the methods of the smuggler, difficult to detect and impossible to suppress.

Thus we are brought to consider another obstacle to the success of prohibition, in the difficulty of enforcing the provisions of the law. Officers elected by a constituency unfriendly to prohibition neglected to do their duty, and it became necessary for individuals to secure evidence and institute complaint. Searchers had to be hired and paid from funds secured by subscription. The amount of such funds was limited, and the number of prosecutions insignificant in comparison with that of the known offenders. To cure this defect, the law was so amended as to insure payment to informers and to attorneys engaged for the prosecution. The attorneys' fees were charged up against the defense. Fees were allowed to searchers, to witnesses, to tasters, and even for the destruction of the confiscated bottles. The character of the searchers was for the most part low, and their conduct was regulated by the profit accruing to themselves; in addition to the sums realized from legal compliance with the letter of the law, many of them derived a handsome income from blackmail. In some instances the justices of the peace who presided over the trial of liquor cases earned more than the salaries paid to the judges of the Supreme Court. The sanctity of private life was violated. Witnesses perjured themselves upon the stand. Juries refused to render

a verdict of guilty, even where the testimony was ample and uncontradicted. If the case was taken before the grand jury, it was often impossible to secure an indictment. While the statutes were constantly augmenting in severity, the public opinion which alone could give them validity was crystallizing in opposition to their enforcement. The popular respect for law rapidly declined before the spectacle of the impotence of the government to compel obedience to it.

There were also certain elements in the political situation which contributed to the ultimate defeat of prohibition. The Democratic party was branded as the friend of the saloon. But it is fair to say that the brewing and distilling interest was not at heart so dissatisfied with the condition of the liquor traffic as it pretended to be; and that the legal relief which was at last accorded to the retail liquor trade in the mulct law was the act of Republicans, resisted by Democrats, who derived greater political advantage from keeping the question in politics than their Republican adversaries could gain by getting it out of politics. The Republican party saw the control of the State passing into the hands of its adversaries. It was irritated and angry with the extremists who revived the third party movement, at the most critical moment of the conflict. The prohibition team had run away with the Republican wagon. The time arrived when a halt must be called, and the Republican party saved, whatever became of the radical prohibitionists, who, on their side, were offended because they had measurably lost their control. The emotional fever, from which the State had suffered so much, subsided; a reaction set in, and the result was the mulct law, which is virtually the surrender of prohibition — at least of "state-wide" prohibition, as the phrase is in Iowa. This reaction was further influenced by purely economic considerations; namely, the loss of public revenue from the sale

of spirits, the enormous cost of criminal procedure on account of the prohibitory law, and the failure to obtain an adequate benefit in return for this expenditure.

I find it quite impossible to formulate a thoroughly satisfactory answer to the question what prohibition in Iowa accomplished, and especially what effect it had to increase or diminish the actual consumption of liquor. It certainly wiped out nearly a hundred and fifty breweries, closed a large distillery, and drove out of business nearly or quite two thousand saloons. On the other hand, the quality of the liquor drunk deteriorated under the law; and not only the resident population but the traveling public was educated, under its influence, in the habit of purchasing liquor at the drug-stores in preference to the saloons, and to drink in private. This custom still prevails. If one were to base a judgment merely on a comparison of the saloon trade in Des Moines to-day with the same trade before the adoption of the law of 1854, it would be clear enough that the effect of the law has been salutary. There were more saloons in Des Moines a dozen years ago than there are now, and they were more prosperous, in spite of the fact that the population of the city has doubled within that period. But I am of the opinion that far more liquor is still sold as a beverage in the drug-stores than in the saloons. Many of them sell freely by the bottle, but allow no drinking on the premises; others permit trusted friends to keep their private bottles behind the prescription case; and some do a flourishing and profitable business in beer, particularly on Sundays and after ten o'clock at night, which is drunk by the purchasers in the back room. The amount thus consumed cannot be estimated, nor the amount ordered by mail from abroad for home consumption, and delivered by the express companies at the purchaser's door. The fact, however, that the liquor interest was willing to expend money to secure the repeal of the law indicates that

it entailed upon them more or less pecuniary loss, as well as great annoyance, which means that their sales fell off in consequence of prohibition. That public drinking fell off is not denied, but it is asserted that private drinking, to an equal or greater extent, took its place. But the growth of the class known as "saloon loafers" was materially checked. These results were secured, however, at considerable cost in other directions. The tension was too great to be kept up. The wave of popular feeling reached its maximum height and broke; then followed the undertow, the inevitable recession of the lofty ideal beneath which it had been hoped that the evil of intemperance might be forever submerged.

The reaction, however, did not go so far as to bring about the repeal of the prohibitory law, which still stands upon the statute books in all its majesty, without abatement of any of its harsh and coercive features. It did not even go far enough to admit of the passage of a local option law, at least in form. The prohibitory law is still nominally in force, even in the rebellious counties where it has never been enforced in fact.

The effect of the law popularly called the mulct law, though the word *mulct* does not occur in it, is very nearly the same as if the legislature had passed a local option law in due form. The prohibitory law is now practically in force wherever a majority of the legal voters favor it, and not in force where the majority of legal voters is opposed to it. But the Supreme Court has held, in the case of Witter *v.* Forkner and Moore, that the new act is not open to the constitutional objections which applied to the acts of 1857 and 1870, held by the court to be null and void. It has been declared to be a general law, applicable alike to all localities coming within its terms, which does not depend upon the vote of the people to give it validity. Prohibition remains the general rule, and license, or a bar to the proceeding against violation of it, the exception. The

whole matter is one of police regulation, delegated to the City Council, which has the power to do, but is not required to do, those things which remove the bar. The statute is not a local or special law, nor does it furnish a diversity of laws in different parts of the State, nor is it a violation of the constitutional requirement that all laws of a general nature shall have uniform operation throughout the State. It does not confer upon the people of a particular locality, nor upon city councils or boards of township trustees, the pardoning power, since it does not remit any fine or forfeiture, for none is imposed in the locality where the act is in operation; it simply bars proceedings which might result in fine or forfeiture if allowed to continue.

These are the essential points made by the court in its decision rendered April 2, 1895. This decision appears to be final. It is above criticism, however difficult it may be for a non-professional mind to reconcile the positions taken with the late deliverances relating to local option. The first difference between the mulct law and local option may thus be stated: Under a local option law, the will of the people of a county or of a municipality is ascertained by resort to the ballot-box; under this act, it is ascertained by petition. The question whether the petitioners are in fact voters, and whether they constitute a majority of all the voters who voted at the last general election, cannot be conclusively determined by a comparison of the signatures with the names entered upon the poll lists, owing to bad writing, and mistakes in spelling and in initials, and the law is defective in that it does not provide for the final decision of disputes as to this point. It has been held by the judge of the District Court in Polk County, that the arbiter in this case is not the auditor, but the court. From this decision an appeal has been taken to the Supreme Court.

The second point of difference between the mulct law

and local option is that, by a popular vote, under the local option system, the sale of liquor is legalized in certain localities. Under the mulct law it is legalized nowhere. Then, too, anybody may circulate a petition at any time; the proceeding does not require to be initiated by any official or set of officials. There is no fixed period during which the bar to prosecution continues to operate; but the filing at any time of a counter petition, signed by a majority of the legal voters within the territory affected, and duly filled with the auditor, removes the bar, and reinstates the prohibitory law. The payment of the tax does not in itself constitute a bar to prosecution, unless all the other conditions of the act are complied with. The tax is imposed upon all persons and places engaged in or occupied for the sale of intoxicating liquors, without reference to the petition. It therefore constitutes, in fact, an additional penalty imposed upon violators of the prohibitory law — a penalty from which the county and the municipality receive a pecuniary benefit; and this is a feature of the bill which recommended it to the prohibitionists in the General Assembly, since such a tax can be more easily collected than the fines imposed by the prohibitory law. It is doubtful, however, whether the bill could have been passed, had it not been coupled with the joint resolution, adopted in 1894, authorizing the resubmission of the constitutional prohibitory amendment to a vote of the people in 1898. Some prohibitionists, in giving their reasons for consenting to the bill, which are spread upon the legislative journals, expressly declare that this was the motive which controlled their action.

Very little attention is paid to the police regulations contained in the seventeenth section, in towns like Davenport and Burlington, where the saloons are open on Sunday and at all hours of the night as before, and where there are back doors and other concomitants of the business forbidden by law. It is not strictly observed even in Des Moines.

There have been prosecutions under it, for instance, for sales to minors; and while the law requires that the sales shall be conducted in a single room, upon the ground floor, in plain view of every one who passes by in the public street, there are saloons which furnish liquor to customers in a room upstairs, by means of a dumb waiter. There are also saloons which have a back room, in which there are chairs and tables. Nevertheless, my observation in this city warrants me in saying that I doubt whether there is any city of equal size, in the United States, in which any law imposing restrictions upon the liquor traffic is so well obeyed as here. It would be over-sanguine to expect this state of affairs to continue permanently.

Registered pharmacists holding permits are exempt from the mulct. They have therefore a decided business advantage over their competitors. They also wield, through the Pharmacy Commission, a political influence which the keepers of dramshops do not at present exercise, since they are still under the ban of the law.

By the mulct act the saloons are successfully required to contribute to the support of the government. The question of license or no license is measurably taken out of politics, since it does not come up at any general or special election, and cannot be complicated with purely political issues or the claims of candidates for office. The holding in reserve, over saloon-keepers' heads, of the pains and penalties contained in the prohibitory act, is a powerful motive to impel them to compliance with proper police restrictions upon their business. But there seems to be, from a theoretical point of view, a certain inconsistency in pretending that a law is uniform in its operation and at the same time providing for the suspension of penalty upon payment of a pecuniary consideration. There is, moreover, an element of governmental weakness in the practical surrender of the legislature, which represents the people of

the whole State, to the counties which have been so long in rebellion. The government virtually, by this act, says to the governed: If you do not like our laws, and will only persist long enough in resistance to them, we will not indeed repeal them to please you, but we will undertake to defend you against prosecution for their violation. The same principle applied to other social evils, such as gambling, for instance, would be equally justifiable, and the law appears to have established a dangerous precedent.

It is only a pessimist who can impartially review this history with feelings of regret. The Republicans of Iowa have done much to educate public opinion in opposition to self-indulgence and excess. The Democrats have insisted that the principle of personal liberty must not be sacrificed to a supposed moral exigency. The long fight in Iowa has cleared away in part the obscurity of thought which delays the reconciliation of these two seemingly antagonistic ideas; and the experience through which the State has passed cannot fail to teach many lessons which will aid other States in the determination of the best course to pursue, in order to preserve the liberty of the citizen and at the same time reduce the evils of intemperance to a minimum.

1895.

THE SOUTH CAROLINA DISPENSARY SYSTEM.

When, in 1876, the Democratic party of South Carolina regained control of the State, the old planter class had in good measure disappeared, and with it the main prop of the ante-bellum régime. Vast estates had been divided, and many had passed into the hands of negro tenants. The era of the small freeholder had begun. The old oligarchy, however, still held the wealth and had the social power and were the educated class. From their ranks came the new leaders and office-holders. The policy of government continued to be shaped by a minority which lived in the cities and larger towns, and more especially by those who, through the prevailing class distinctions, considered themselves the traditional heirs to political preferment. Although the State is predominantly an agricultural community, the will and wishes of the farmers were not consulted. Except in point of numbers, they lacked the influences that command even an unwilling hearing; and they were without organization.

But before long the mutterings of the agrarian movements, then in their infancy, were heard. The growing restlessness of the agricultural classes was encouraged by leaders till it became an organized discontent. Their most effective argument was an appeal to class prejudice. The State, they said, was not governed by the people, but by a class of aristocrats, who regarded themselves as privileged. These were denounced as a "ring," guilty of all manner of abuse and mismanagement, and their sins of the past were

recalled. From their beginnings the "Patrons of Husbandry" and the "Farmers' Alliance" readily lent themselves to the new aspirations of the rural population. Between the "up" country and the "low" country no love had ever been lost. The low country, with Charleston as its centre, had always been accused of arrogating to itself the right to dictate the policy of the State. Now the rural districts were everywhere organized against the towns and cities. The urban residents were accused of reaping undue advantages at the expense of the farmers, and of usurping political power.

The culmination of years of agitation and discontent came in 1890, when the rustic party overwhelmingly defeated the ruling minority. The leaders of the new movement — the "Reform party" it was called, in distinction from the "Conservatives," who stood for the old Democracy — had above all things succeeded in dividing the Commonwealth into two bitterly hostile camps. It was a division on social lines. On one side stood the large majority of the voters, principally farmers, including the illiterate whites; on the other, the representatives of the once ruling class and their sympathizers, whose strength was in the cities and towns. Ordinary party questions had not played a conspicuous part. The Reformers assumed to stand for the national Democratic party; so did their opponents. Neither side appealed to the negro vote, but both feared it. In short, it was a struggle for supremacy between the "wool-hat and one-gallus boys" and the "kid-glove gentry," to adopt the catchwords of the campaigns.

In 1890 the total population of the State (United States Census) was 1,151,149 (462,008 whites and 689,141 colored). The foreign-born inhabitants (almost exclusively Irish and German, with a few Italians in the cities) numbered only 6,270, or but .54 per cent. of the whole. Of the whites of ten years of age and over, 17.9 per cent. were illiterate.

The white people are nearly all of native stock, but with a percentage of illiteracy exceeded in the South only by North Carolina, Alabama, and Louisiana. Of the colored population, 64.1 per cent. were illiterate.

The urban population is comparatively small. Only five cities have each more than 5,000 inhabitants, and all these five have only 84,459. Only 131,287, or 11.46 per cent., of the entire population live in towns of 2,000 population and more. Nine counties, including some of the largest, are without towns of more than 1,000 inhabitants. In the lower and middle sections the negroes outnumber the whites, in some places two to one. Elsewhere the two races are about equally divided. The agricultural pursuits are supreme in importance. The manufacturing interests, however, are developing, chiefly cotton spinning, in which white labor is almost exclusively employed.

LIQUOR LEGISLATION PREVIOUS TO 1892.

The early liquor laws, which were fragmentary and not uniform, sought to meet special needs by special acts. A general law of 1880 forbade the issue of licenses outside of the incorporated cities, towns, and villages. But municipalities were left free to fix the fees, after paying $100 to the county for every license. The independence enjoyed by the municipalities in regulating the traffic resulted, naturally, in keeping the liquor question in local politics. In the fixing of the fee, however, the tax-payer frequently had his say, because it touched his pocket. In numerous places licenses came to cost $500 and even $1,000. But the legal restraints were not severe. There remained the alternative of prohibiting liquor-selling altogether. In 1882 a local option law was passed, which, in turn, was modified by special acts. But it did not affect the counties where prohibition already existed by virtue of a statute.

The drink problem, which had hitherto played a part

chiefly in local politics, became a state problem at the very time of the triumph of the Reform party. By 1891 prohibition was in force in six counties, and in more than sixty towns and villages. But this apparent growth of the temperance sentiment did not satisfy the prohibitionists. The local enactments had not worked successfully everywhere. A remedy was sought in "state-wide" prohibition.

It became a political necessity for the Reformers to take some definite action. Thus far they had not pledged themselves to one policy or the other, but it was well known that both the Reformers and the temperance men drew their strength from the same sources. In 1891 the prohibitionists exhibited signs of unexpected strength. An immense petition in favor of prohibition was about to be presented to the legislature. The governor in his message spoke of the "gross inequality" of the license system because only a small part of the license fees went to the general fund. "The people in the country," he said, "pay tribute to those who sell liquor, — by means of which the towns are beautified and adorned, — but they pay tax for the suppression of the crime produced by the maintenance of these barrooms. It is unjust and unequal, and ought to be stopped."

He proposed to deprive the municipalities of the license moneys, dividing them equally between the State and the county, imposing a high fee and leaving the local option law as it was.

But this appeal to the pocket of the rate-payer and to the prejudice of the rural classes against the towns did not meet with favor. The lower branch of the legislature, now completely in the control of the Reform party, was of strong temperance proclivities, and passed an "iron-clad" prohibitory bill by a vote of fifty-three to thirty-seven. The Senate, more regardful of party needs, killed this bill. But some concession to the strong prohibition sentiment was

imperative. It was therefore agreed in the convention preceding the state campaign of 1892 to take a popular vote on prohibition by special ballot at the election of that year. The majority for prohibition was 10,000 votes out of a total vote of 70,000. The prohibitory committee claimed three fourths of the legislature; they claimed, too, that the candidates for the legislature had voluntarily "agreed to abide by the result of the ballot in the prohibition box and support or oppose the measure in the legislature as the majority in the box should determine." On the other hand, it was pointed out that nearly 20,000 electors had failed to vote on the question, one way or the other, and that hence the popular vote taken did not fairly represent public sentiment. A political panic had set in, and a month before the legislature convened there was talk of again referring the question of prohibition to the people. The liquor problem had to be met. This was acknowledged at the outset in the message of Governor B. F. Tillman to the legislature in November, 1892. This message revealed the critical position in which the dominant party found itself, and showed the animus of its leaders. In the message the governor said: —

"I would call your attention to the law in force in Athens, Georgia, by which a dispensary for the sale of liquor is provided, and which, after a trial, is pronounced a success by the prohibitionists. . . . When attention is directed to the fact that most of our municipalities are relieved altogether of taxation for municipal purposes by the money derived from the sale of liquor, it will be seen why so many towns, which have tried the prohibitory system, when they found liquor sold any way, and their municipal taxes drawn from property, . . . have returned to license."

The message then reiterated the plan proposed in 1891 of dividing the license fees between the county and State, but permitting the municipality to issue the license, and concluded: "I have seen no reason to change my opinion

as to this being the simplest and most practicable way of accomplishing the end desired. . . . On the other hand, absolute refusal to license liquor will increase the taxes of the county one half mill. . . . Another struggle which we cannot be blind to will be the probability of a desperate political struggle between the prohibitionists and anti-prohibitionists two years hence, with an appeal to the negro as the balance of power; for in every town where the question has been fought out at the polls this has been the effect, and, when applied to the State, we must look for a like result."

This renewed appeal to the pocket-book and the jealous feeling of the rural districts toward the cities did not produce the desired effect; nor did the fear expressed of political complications sure to endanger the Reform party, should probibition win, strike deeply. After much debate, and having considered several prohibitory bills, the House passed one of the most stringent nature. The leaders of the Reform party, who were best represented, naturally in the Senate, took alarm at the situation. They were, above all things, pledged to bring about a reduction of taxation, which last of all could be effected when under the necessity of enforcing a prohibitory law. Besides, within the party itself there was not a unanimous sentiment in favor of the proposed law. Its enactment foreboded for a certainty serious complications, if not political shipwreck. Inaction would be equally fraught with danger.

The problem had to find some solution. The dispensary system in vogue at Athens, Georgia, gave the clew to a possible escape from the dilemma. This was a system of municipal control of the liquor traffic having a twofold aim: to reduce the evils of the liquor traffic by taking it out of private hands, and to retain the whole profit from it for municipal purposes. Accordingly, the House prohibitory bill was killed in the Senate by substituting for it, by a vote of 18 to 10, what became known as the "dispensary

act." The new measure was rushed through toward the very end of the session. The lower House had barely time to read it. It was whipped through in the course of two and a half hours at the last meeting.

THE DISPENSARY LAW OF 1892.

This law bore the sub-title, "An act to prohibit the manufacture and sale of intoxicating liquors as a beverage within the State, except as herein provided;" and it went into effect only July 1, 1893. Its principal features are summarized as follows: —

The governor, with the approval of the Senate, shall appoint a commissioner for two years, who, under the regulations of the State Board of Control (the governor, the comptroller-general, and the attorney-general), shall buy all liquors for lawful sale in the State, giving preference to distillers and brewers in the State; and he shall supply them to local dispensers for not more than 50 per cent. above their net cost. The liquors shall be shown by analysis to be pure and unadulterated. The commissioner must give a bond in the sum of $10,000 and pay monthly to the state treasurer all money received by him. He shall make a quarterly sworn statement of all the business done by him.

Every package of liquor must be sealed and bear a certificate that it was bought by the commissioner; a package shall not contain less than a half-pint nor more than five gallons. The local dispenser shall not break the seal of any package; he must sell by the package only, and the purchaser shall not open a package on the premises.

County Boards of Control (consisting of three members), appointed for two years by the State Board, shall make rules for the sale each in its own county, subject to the approval of the State Board.

Manufacturers in the State may sell to no one in the State but the state commissioner, but they may sell to purchasers outside the State; but packages without certificates, shipped outside the State, shall be liable to confiscation.

Any one may make wine from grapes or other fruits for personal use.

Provision was made for one county dispenser at the county

seat of every county (except that in Charleston there might be ten dispensers and in Columbia three), and the County Board were at liberty to establish dispensaries at other towns than the county seat. The petition of the applicant for the place of dispenser must be signed by a majority of the freeholders of the municipality in which the dispensary is to be, and he shall give a bond in the sum of $3,000. He may not be a druggist or the keeper of a hotel or restaurant or place of amusement.

"Permits granted under this act shall be deemed trusts," says the law, "reposed in the recipients thereof, not as a matter of right but of confidence," and they may be revoked. Their compensation is fixed by the State Board.

The profits shall be paid monthly, one half to the county and the other half to the municipality.

A purchaser, before he may be served, must present a request, printed or written in ink, giving his name, age, and residence, the kind and quantity of liquor wanted, and for whose use; and the request must bear the signature of the applicant and be countersigned by the dispenser; the dispenser shall require the identification of the applicant if unknown; and no minor nor habitually intemperate person may be served. All requests shall be reported monthly to the county auditor.

The dispenser's books shall at all times be open to the inspection of officials and of citizens.

The payment of a United States special liquor tax shall be *prima facie* evidence of liquor-selling; druggists may buy for the purpose of compounding medicines that cannot be used as beverages.

The State shall appropriate $50,000 to buy the first supply.

Attaching a false signature by any buyer shall be a misdemeanor, fine $100 to $500, or imprisonment from one month to six months; for maintaining a place where liquor is illegally sold or given away, for the first offense, fine $100 to $,1000, or imprisonment from three to twelve months. Transporting liquor into the State, or transporting from place to place liquor for sale, $500 for each offense and imprisonment one year.

The governor shall have power to appoint constables (salary $2 a day and expenses) to enforce the law.

This is the substance of the first dispensary act. In referring to it in his message a year later, the governor said that the Senate, using the prohibitory bill which had

passed the House "in its entirety almost as a basis, with a few alterations and amendments made necessary on account of the change of purpose," returned the dispensary act as a substitute for the prohibition bill, and the House, concurred in the same without amendment, as the time was too short even to discuss it. But when he continued, "The act thus hurriedly prepared became a law, as a compromise between the prohibitionists and the temperance people who were skeptical as to the practicability of a prohibition law," he did not make a statement of the whole case. "The dispensary bill," said the Reform party, "was introduced to gain time for discussion of the whole subject," after a prohibition bill had gone through one branch of the legislature with a rush. The "Reformers" were afraid of an out-and-out prohibition law, but they wished to retain the support of the prohibitionists. "The passage of the dispensary bill will not weaken the Reform movement to any great extent," said the chief newspaper organ of the governor.[1] "The prohibitionists will come over. The great majority of our white voters reside in the country, and have no interest in sustaining the saloons. Liquor licenses do not lessen their taxes, and if they can procure all the whiskey required, and have the profits thereon returned to them, they will be content with the existing order of things."

The financial feature of the new device was thus relied upon to win favor among the party pledged to its enforcement and support. By the highest authority it was declared in advance that, with a much reduced consumption, the dispensaries would within a year yield net profits of not less than $500,000. And this led to the further prediction that "before 1894 dispensaries will be established in counties where there now is prohibition."

In 1892 South Carolina had about 613 barrooms, from

[1] *Columbia Register*, December 25, 1892.

which the counties derived a revenue of $81,000 and the municipalities $134,372. In 1893 many of the saloon-keepers had not opened their shops, although the law expressly provided that they might continue their business until June 30 on the payment of one half of the usual fee.

The closing of the saloons was generally accomplished without much disturbance. The step to perfect compliance with the new law was, however, still a very long one. Many former dealers were determined to continue the traffic; for even after the law became operative no less than 205 United States special liquor taxes were paid. "Blind tigers," as the unlicensed liquor-shops are called, made their appearance. Whiskey flowed into the State through many unsuspected channels. The railroads and other common carriers did not all discountenance the smuggling of the contraband goods; some seemed rather to lend active aid in defeating the law. The state constabulary were at the outset wholly unable to stem the liquor tide. The governor, upon whom from the beginning had rested, not only the perfecting and conducting of the state liquor business, but the organization and direction of the constabulary, soon said: "The only and best means I have to keep down the 'blind tigers' is to establish dispensaries. Again, the revenue from these is absolutely necessary to maintain the force of constables." The city authorities did not feel called upon to assist him, for the enforcement of the laws was naturally assumed to be a function of the State. While no municipalities displayed activity in suppressing the illegal selling, several of them strove to prevent the opening of dispensaries. Suits were brought for this purpose and in order to test the constitutionality of the law. Charges of fraud were made against those who had labored to secure the required number of signatures to petitions for state liquor-shops. The governor went on extending his new

enterprise. But the dispensary act remained unpopular. It did not satisfy the advanced prohibitionists, who had been baffled by its enactment when almost within the sight of victory. While many temperance advocates rejoiced at the closing of the saloons, others, among them prominent clergymen, denounced the state traffic as "unholy." In two instances dispensers found themselves forced to resign church membership. Moreover, the socialistic basis of the law displeased many; and it was decried as unconstitutional and a gross infringement upon personal liberty. The press (with but few exceptions) ridiculed the law, and rather encouraged its violation.

Beneath all the bitter opposition lay a rooted hostility, partly political, partly personal, to the originators and chief supporters of the scheme, creating a conviction that nothing good could emanate from the party in power. By its enactment the administration had not only demonstrated the impotence of the minority, but had gained a distinct political advantage. This intensified the feeling.

Serious legal complications soon arose from attempts to enforce the law. One constable found himself in trouble for interference, as it was alleged, with the Interstate Commerce Act by seizing certain contrabrand liquors. Subsequently, a circuit judge declared the law unconstitutional. By October, 1893, three judges had rendered decisions to the effect that the act did not provide penalties for the mere act of selling liquor. Before November, dispensary cases had been argued in the United States court, in the State Supreme Court, and before nearly every circuit judge on the bench. Under the circumstances, the penal clauses of the law naturally remained inoperative. The severest punishment that could be inflicted even on flagrant offenders was only the confiscation of their liquors. Before the law was four months old, more than fifty cases for its violation had reached the courts. But it was impossible to push them

on to a final conviction, and very few ever reached a petty jury. Not only was there a manifest reluctance thus to assist in making effective a law odious to nearly all men from whose number juries were drawn, but some of the offenses were of a nature "which most men consider not as meriting such severe punishments as now provided." [1] In this category belonged, for instance, the penalty for transporting liquor for others, or bringing it into the State for personal use. Arrests for such violations were therefore often made more as form than to bring the offender to book.

To add to the complications, some of the local dispensers showed themselves utterly unfit, which of course engendered new contempt for the whole scheme. Meanwhile the business had grown. In July there were 29 county dispensaries; in August, 39; in September, 47; in October, 51. One had been discontinued. The local dispensers and their clerks numbered 74, and were receiving salaries ranging from $300 to $1,000 per annum. At the central distributing depot in Columbia, 54 employees were working 10 hours a day. Yet it was found "almost impossible to keep the local dispensers in stock," and that, too, when the governor said that "not more than one half of the liquor drunk in the State at this time has passed through the dispensary." The negroes harbored no ill-will against the promoters of the law, and furnished the principal custom of the dispensaries.

The gross sales to consumers in four months had amounted to $166,043.56; total expenses of the State Dispensary, $72,566.36, and of county dispensers, $19,890. This left an apparent profit of $32,198.16, counting the probable proceeds from the stock still in the hands of the local dispensers. The actual profit paid in was $4,546.93.

To what extent the system, from a temperance point of view, would surpass a license system, it was too early to

[1] Governor Tillman's message, 1894.

determine; besides, the illegal traffic still flourished. As a financial venture, the dispensaries had so far not proved a success. The expectation of large returns to the several counties and the State, with a proportionate reduction of taxes, had appealed strongly to the rural legislators. But the cities and towns now found themselves deprived of a large part of their revenue, which caused further resentment; and there were many among the temperance advocates who "cried aloud against the iniquity of a government sharing in the 'blood money.'"

With many recommendations of specific amendments by which the law could be fortified and its better enforcement secured, the act of 1892 was referred to the next legislature, and it emerged in due time in a completely remodeled form. The underlying principle remained the same. The changes were in general designed to strengthen and secure the monopoly of the State:

(1) By facilitating the establishment of new dispensaries, which would do away with rural prohibition, and thus extend the monopoly; (2) by increasing in several ways the power of the constables, and thus render illicit importation or sale unprofitable, if not impossible; (3) by reducing the penalties in some cases and bringing them down to trial justice jurisdiction, thus avoiding petty juries as well as grand juries, besides making the punishment more commensurate with the popular estimate of the offense; (4) by providing new penalties to meet every contingency; (5) by threatening to withhold from the municipalities their share of dispensary profits for failure to suppress illegal sales; and (6) by discrimination in favor of home products, thus lessening the opposition from one quarter at least.

THE AMENDED DISPENSARY LAW (1893).

The new act went into effect upon its approval, December 23, 1893, and served but to feed the feeling of ill-will

against the state liquor traffic. Especially odious were the unusual powers conferred upon the constables, who had not proved themselves a high type of officials in making searches, seizures, and arrests, and the threat to punish the municipalities by depriving them of revenue for not lending sympathy to the state monopoly. The tension caused by the work of the constabulary grew. On December 17, 1893, the first bloody conflict between constables and citizens arising from it occurred, when a negro was shot by a constable.

Soon all municipalities received notice from the governor that they must exterminate the "blind tigers" or forfeit the revenue. One city was thus dealt with a few days later. A circular was issued to trial justices instructing them, under penalty of removal, to secure obedience to the law. This significant document was in part as follows: —

> "The statutes, as construed by the Supreme Court, require that criminal cases coming within the jurisdiction of trial justices shall be tried by jury, on demand of the defendant. . . . Jurors are to be summoned by the constable after six names have been drawn from a hat in which eighteen names have been placed by the constable. It will be the duty of trial justices to see that no names are put in the hat except those of men who will find a verdict according to the evidence, and not perjure themselves through prejudice against the law."

The friction produced by attempts at executing the laws was rapidly nearing the danger point. On February 3, 1894, occurred the second deadly conflict (in Wellington), in which one man was killed by a constable and another was wounded.

The state officers were now armed with rifles, and there was talk of the need of the militia to reinforce them. Before the end of March, three cities — Columbia, Florence, and Darlington — were notified that they must relinquish their share of the dispensary money. In Darlington serious trouble was already brewing. Numerous raids in search

of liquor had been made; many constables were on the spot, and threats had been heard that they would invade private houses. Whether or not such an extreme course was actually contemplated, the rumor of it was spread, and armed citizens gathered, bent on resisting to the last any such attempt of the state officers. In Sumter and Florence meetings were held and resolutions were passed to aid the citizens of Darlington in case of need. As yet there had been no outbreak. But on March 30 the memorable Darlington riot occurred, in which five lives were lost and several men were wounded. The trouble arose through the interference of constables in a quarrel between two citizens. The coroner's jury, composed of three Reformers and two Conservatives, returned a verdict of "felonious murder" against two of the constables. Whatever provocation to violence the latter had, they were held responsible for the blood shed.

But the "riot" gave rise to many strange complications, and the opposition to the dispensary law began anew. As soon as the shooting was over, the constables had fled, pursued by citizens. The news of the affair caused the intensest excitement. Only the counsel of cooler heads prevented rioting in other towns. The governor called out the militia companies of Columbia, but they refused to obey, preferring rather to give up their commissions. Company after company laid down their arms amid the applause of citizens. From other points came refusals of military organizations to proceed to the seat of trouble. The governor then called out the rural militia, of which the majority could be counted as his political followers. Florence, where the dispensary had been looted, and Darlington were declared under martial law. Railroads and telegraph offices were seized by the governor, who also assumed control of the entire police force in the State. Business was at a standstill. A censorship was exercised

over telegraph dispatches. Four hundred troops were concentrated at Darlington, and others were kept in reserve in the State penitentiary at Columbia. But in Darlington perfect order had reigned after the murderous shooting. The constables who had been pursued for a while were not molested, and the civil authorities were able to uphold the peace. A contemplated looting of the dispensary was prevented. When the troops arrived there was no conflict between them and the citizens. As early as April 5 constables returned to Darlington and went their ways unharmed. The escape from a state of civil war had been averted by a hair's breadth only. The high-handed course of the governor in seeking to enforce the unpopular law at any hazard had served only to increase the odium in which it was held.

The lull which now ensued was, however, largely due to the knowledge that the Supreme Court would soon pass upon the law, and to the generally accepted prediction among its opponents that it would be declared unconstitutional.

THE LAW IN THE COURTS.

On April 19, 1894, the Supreme Court of the State rendered a decision declaring the law unconstitutional. The issue had been raised on the act of 1892, which was declared invalid, except in so far as it prohibited the licensing of the sale of liquor; one justice dissented. Politically the court was composed of two Conservatives and one Reformer, who had lately come into office. The general ground taken in the decision was that the State could not constitutionally embark in a commercial pursuit, as the selling of liquor for profit was held to be; and that such sale did not come within the legitimate exercise of its police power.

On the day after the decision the State Dispensary, as well as the local shops, were closed by order of the governor, and all employees were paid off. The trial justices

throughout the State were ordered to refrain from issuing arrest warrants for violations of the dispensary act. To all appearances the decision against the law was accepted as final.

Meanwhile in some places beer and wine licenses were issued by municipal authorities; in others, such action was discussed; in still others, prohibition was regarded as the lawful order of things.

Within a few days, however, came a supplementary decision from the Supreme Court to the effect that the State was now under prohibition. This had the result of restraining certain municipalities from issuing any licenses, but general enforcement of prohibition was not attempted. The governor stated that he had no authority to enforce prohibition, as "sheriffs are under-officers," and he had "no longer control of the police force, as the necessity for that was not now at hand." The constabulary, it was maintained, had been appointed to uphold the dispensary act only; besides, it would become a serious question how to pay them for their services.

In the absence of specific law the municipal authorities were not strongly disposed to interfere with the liquor-sellers. From April 21 to August 1, 1894, no less than 1,174 United States special taxes were paid by retail liquor-dealers in the State, showing plainly how unrestricted was the traffic.

But affairs were not suffered to remain long in this unsettled state. In a campaign speech delivered in July, the governor announced his intention of reopening the dispensaries the following month. A proclamation to this effect was issued a few days later, in which the reasons for setting aside the decision of the Supreme Court were given. The adverse decision was the result of a suit brought to test the original law of 1892, not the law of 1893. They were, however, held to be identical in principle. In his message in 1894 the governor said: —

"I fully anticipated a case being brought under the act of 1893, and a decision of like nature to the first, . . . although I felt, as did most people, that the decision was an outrage, and the result of partisan bias. . . . I resolved to thwart the court if I could; and every effort was put forth to prevent the act of 1893 from coming before the court as it was then constituted. . . . The act of 1893 had been ignored by the court in two cases, and a change in the court made me feel it a duty to revive the act of 1893, and test the question of its constitutionality once for all. So, on July 22, I issued a proclamation ordering the dispensaries to be reopened August 1st. . . . The constabulary . . . was reorganized about the middle of August, and put to work, being gradually increased, and instructed to close down on the liquor-dealers by degrees."

The course taken by the governor amazed even his own adherents. The proclamation concluded thus: —

"The said Supreme Court, having adjourned without in any wise giving expression in regard to the act of 1893, the said act is in full force and effect, and will be enforced in accordance with my oath of office until the courts shall have passed upon the same, or until the legislature shall have repealed it."

One of the judges of the court who had declared the law invalid was to retire before many weeks. His successor had already been chosen by the legislature from the party in sympathy with the law. This is the "change in the court" to which the governor alludes. Relying in advance upon the favorable opinion of the incoming justice, the plea that the act of 1893 had not formally been passed upon furnished a pretext for opening the dispensaries in order that the constitutionality of the law might be tested "once for all." Moreover, the financial aspect of the matter was one of supreme importance.

For some time after August 1 little effort was made to suppress illicit selling; on the other hand, several dispensers were arrested for not taking out a beer and wine license as required by certain municipalities. But when the constabulary force had been reorganized, the chief exec-

utive announced: "I intend to enforce the law up to the very hilt; I intend to enforce it if it takes all the military in the State to help me do it." The constables, however, proceeded with greater caution than formerly. Yet in one or two instances riots were narrowly averted.

Meanwhile a circuit judge had declared the act of 1893 unconstitutional because identical in principle with the one preceding it. On October 9 the Supreme Court pronounced the dispensary act of 1893 constitutional; the chief justice dissenting, adhering to his former opinion that the two acts were identical in principle.

When the State had thus formally been declared to be under the dispensary law, liquor raids were resumed with increased vigor. To facilitate the work, a reward of 20 cents per gallon was offered to informers for information leading to confiscation of liquor. This scheme, which was not authorized by law, proved wonderfully successful.

The state legislature, reassembling in November, was again called upon to amend the law and grant the executive further power. Under the same title that distinguished the act of 1893, the dispensary law was reënacted with numerous amendments, and approved January 5, 1895.

This legislation undoubtedly strengthened the State's monopoly of the liquor traffic: (1) by facilitating the multiplication of the official liquor-shops; (2) by extending the authority of the executive, and enabling him to remove any delinquent officer immediately concerned with the enforcement of the law; (3) by changes in the mode of procedure in liquor cases, whereby they may be given to rural juries with better hopes of conviction on sufficient evidence; (4) by placing breweries and distilleries under new restrictions, and thus further cutting off competition through illicit sales; (5) by increasing the penalties; (6) by increasing the number of officials enjoined to prevent infringement of the law; and (7) by putting a premium on confiscation of liquors

by allowing certain officials one half of the proceeds from their sale. The law as it now stood did not contain any provisions aiming at a diminution of consumption not found in the first act.

Another legal measure to compel compliance with the law had long been contemplated. In the cities, as well as in the majority of the towns, the police officials had shown little sympathy for the state liquor traffic, and had not concerned themselves with zealously guarding it. The threat to withhold from the municipalities their share of the liquor money for neglect to fight the "blind tigers" had not been without effect, but the local authorities were still accused of lukewarmness. The question of establishing a metropolitan police had been broached in the governor's message of 1893. The promise was then held out that, when the cooperation of the local police could be depended upon, the expenses of enforcement would be materially lessened. This "drastic measure," as that message apologetically designated it, was openly advocated in the messages of 1894.

The metropolitan police bill, passed in December, 1894, provides that whenever a board composed of the governor, the secretary of state, and the comptroller-general shall deem it advisable, for the better enforcement of the law in any city or incorporated town under police regulations, they shall appoint a board of state commissioners to consist of three members for such city. The first mentioned board is endowed with autocratic power. It may at any time declare a city under metropolitan regulations, and upon its consent the resumption of local self-government by the municipal authorities is absolutely dependent. The local board may, with the consent of the state officers, appoint any number of special policemen not to serve for more than two successive days without reappointment. All fines and forfeitures must be paid into the treasury of the county for the use of the common school fund, the city retaining the fines for violations of municipal ordinances.

EXTENT OF THE DISPENSARY SYSTEM.

There were at time of this investigation eighty-one dispensaries in operation, exclusive of those connected with tourist hotels, the distributing depot at Columbia, and the brewery selling under state protection. The growth of the official liquor-shops had, therefore, been rapid. There were in the State in 1892, when the dispensary system was introduced, 613 barrooms; in Charleston, where there had been 285 barrooms, there were only seven dispensaries.

Taking the counties, Aiken, Barnwell, Beaufort, Berkeley, Colleton, Hampton, Orangeburg, and Richland, which all, except the last mentioned, belong strictly to the lower southeastern section of the State, thirty-nine dispensaries were found within them, or 48.14 per cent. of the total number. They contain only 373,936 inhabitants, or 32.66 per cent. of the total population in the State. This section includes the greater portion of the black belt, and formerly supported 483 bars, or 78.79 per cent. of the total number existing in 1892 (613). There was thus a good reason why a majority of the dispensaries should be placed there. No incorporated communities other than Charleston and Columbia have more than one dispensary each. The dearth of state barrooms in the counties along the northern and western borders of North Carolina is difficult to account for, except on the ground of a still surviving prohibitory sentiment. Yet that part of the State contains the distillery interest, both the legal and illegal, and offers the best opportunities for smugglers. However, the notorious moonshine district has already been invaded by state liquor-shops.

Classifying the dispensaries according to the population of the places in which they are situated, we find more than one half, or 44, established in communities with less than 1,000 inhabitants each, as follows: in places of less than 100

inhabitants, 13; in places of over 100 and less than 500 inhabitants, 15; in places of over 500 and less than 1,000 inhabitants, 14. Of the remaining, 18 are established in places of between 1,000 and 3,000 inhabitants, 8 in so many cities of between 3,000 and 9,000 inhabitants, and 11 in Columbia and Charleston. In 9 cities and towns of between 1,000 and 3,000 inhabitants, and in 16 places with a population running from 100 to 1,000, dispensaries are not found, and consequently the sale of intoxicants is prohibited. The "dry" towns are nearly all found in the up country. Of the six counties under prohibition in 1892, only one remains wholly so. It follows that a number of the old-time no-license places now have state liquor-shops.

The authorities pursue the policy of establishing dispensaries wherever a favorable opportunity offers. Two questions only are considered: Will the proposed dispensary pay, and can the necessary number of voters be found in favor of it? The advantage to the administration of increasing the dispensaries are a larger revenue and greater political power. The attempts to force a dispensary upon a prohibition town can scarcely spring from a desire to promote temperance. Bitter local contests have ensued more than once from this cause between the advocates of a dispensary — of course, active supporters of the Reform party — and its opponents. The latter, however, are doubtless actuated less by motives of a purely moral nature than by fear of having their political enemies gain a firmer footing. So demoralizing has this enmity become, that many, while strenuously opposing the opening of a new dispensary, shut their eyes to the illegal traffic. It is easily seen how, under such circumstances, private liquor-dealers may continue to influence local politics.

THE SYSTEM AS A BUSINESS VENTURE.

Up to November 1, 1894, the system had been in operation about fifteen months, with an intermission of about three months in 1894. During this period the business was as follows: —

Total cost of liquors	$416,853.12
Total expenses	207,056.15
Total sale to dispensers	694,271.69
Amount due by dispensers to State	106,496.42
Amount cash received from dispensers	553,811.13
Amount cash all other sources	10,865.26
Total cash	$564,676.39
Stock at State dispensary (wholesale)	$65,455.59
Amount due by state dispensary	43,815.26
Value of assets over liabilities	$147,694.95
From which deduct State appropriation	50,000.00
Net profits	$97,694.95

The net profits as above exhibited include, however, the prospective profits of the State upon goods still in the hands of county dispensers amounting to 22 per cent. on $106,496.42, or $23,429.21. Exclusive, then, of deficits discovered in the accounts of certain dispensers, the actual profits realized up to November 1, 1894, on the basis of all assets given above being considered good, would amount to $74,265.72. This net profit, again, is exclusive of interest upon the state appropriation of $50,000, and of the rental of buildings, etc., used by the dispensary. It will be seen that thus far no cash from the liquor business had been turned over for the use of the State, nor had the original state appropriation been refunded.

The business of the county dispensaries during the same period was as follows: —

Total amount purchased from the state dispensary,	$671,555.99
Total amount of sales, invoice price . . .	573,578.38
Total sales to consumers (county profit added) .	$679,222.88
Gross profits.	165,355.40
Total expense	88,580.15
Total net profits	$76,775.25

As a source of revenue the system had not realized the glowing expectations of its advocates. In sixteen months the municipalities and counties had received a sum from the dispensaries equaling not quite one third of their usual annual income from liquor licenses, — the former being deprived of the greater amount, — and the State had not been enriched. The system, however, had operated under adverse circumstances, and not even continuously. The growth of liquor-shops and a gradual extermination of the "blind tigers," which in many places is rapidly being effected, indicate greater profits in the future.

THE SYSTEM AS A POLITICAL MACHINE.

In absolute control of this vast and ever-growing business, it should be remembered, are the governor, the secretary of state, and the comptroller-general. Not only do they appoint the state commissioner, but in the absence of specific legal provisions they are required to prescribe "all rules and regulations governing said commissioner in the purchase of intoxicating liquors or in the performance of any of the duties of his office." It is, among other things, left to the State Board of Control to fix the percentage of profit to be charged by the State on its sales to local dispensers. Again, these officials have the sole appointment of the county boards of control, who are subject to their rulings in every matter relating to the local shops. They have the final decision in the questions of establishing new dispensaries, the location of the latter, the

appointment of dispensers and their assistants; they fix the salaries, the prices at which liquors shall be sold to the consumer, and so on. The frequent flippant allusions to the governor of South Carolina as the "chief barkeeper of the State" are thus not without foundation in facts. As chairman of the State Board, he is highest in authority, and many of the details of the dispensary business are necessarily referred to him. As an instance, it may be cited that, under the present rulings, it is possible for private persons, on paying a royalty to the State, to import officially protected liquor for their own use. Such transactions are effected through local dispensers, but only when permission has been obtained from the governor. He has also the sole and unlimited power to appoint constables to enforce the law, and he directs their movements.

It is perhaps unavoidable that the unusual powers thus conferred upon the chief executive and the two associates of his own choosing should have a deep political significance. Party exigency was the father of the dispensary act, party welfare demanded its growth and nurture in the face of the bitterest opposition. It follows that the men in any way connected with the state liquor monopoly must be of the same political faith. More than this. Since the establishment of a dispensary means an assured competence to one or two men and some party prestige, accompanied perhaps by a little patronage to those composing the county boards of control, strong partisans are naturally chosen to fill those positions. In other words, whether this end was kept in view at the outset, the dispensary law has resulted in the creation of a magnificent political machine, with the governor as engineer-in-chief. For each of the eighty-one dispensaries may be reckoned two employees; the county boards of control number 105 persons; the constables about sixty; the employees at the chief dispensary about fifty-

seven, in all some 384[1] men, scattered over the State, and most numerous in the sections where the Reform party is weakest. All the constables and several others may at any time be sent at public expense to any part of the State. Wholly dependent as these men are upon the State Board of Control for their subsistence, it would be idle to disclaim their willingness to work diligently for party ends. Furthermore, it is notorious that when the first general opportunity presented itself for setting the machine in motion — in the campaign of 1894 — the dispensary forces were notified to help elect the candidates of their party. The potentiality of the machine was much enhanced by the passage of the metropolitan police act.

Underneath the opposition lies the feeling that, in furtherance of ostensibly a purely moral object, the advocates of the dispensary system have grasped the opportunity of intrenching themselves in power and abrogated the rights of local self-government in a manner at variance with all the political traditions of South Carolina. That the state control of the sale of liquor cannot be dissociated from politics is admitted by its promoters to be an inherent defect of the dispensary system.

From a business point of view, the management of the business has not been open to severe criticism founded on known facts, although attacks have been numerous. Another question of interest is whether the financial or the temperance feature is incidental to the dispensary traffic. It is complained, not without reason, that the State has devoted itself to supplying spirituous instead of malt liquors, and that this action is detrimental to sobriety.

It is unquestionably of greater profit to the State to sell the distilled goods. At present, however, steps are taken to increase the use of malt liquors, but in a peculiar way.

[1] Trial justices are appointed by the executive, and may be added to this number.

The State has entered into an agreement with the largest brewery in South Carolina, under which, on paying a royalty to the State, the brewery may supply its officially protected wares directly to the customers. Other breweries expect to reopen on the same terms. This encouragement of the home industry (outside breweries cannot be granted similar concessions) is not easily harmonized with the often reiterated declaration that the dispensary system does not rest upon a revenue basis, and was devised to reduce the consumption of intoxicants. A curious result of this discrimination is that the largest brewery in the State, under protection of the government seal, supplied all the beer dispensed by the "blind tigers" of Charleston and perhaps other places. Home-made liquors are required to be bought in preference to imported ones. This attempt at "saving the profit at home" has led to much illegal selling by distillers, as well as to the state purchase of an article unfit for consumption by reason of its newness, and one that is highly intoxicating. Nor can the fostering of the wine-growing industry — the products of which, to the exclusion of wines grown elsewhere, must be handled by the dispensary at a profit not exceeding 10 per cent. — be regarded in the light of a prohibitive measure. A strange blending of moral and business purposes is found in the provisions relating to the sale of confiscated liquors through the state commission: if pure, they find their way to the local dispensaries, but if impure are to be shipped for sale beyond the State. The State persists in selling "straight liquor" only, regardless of its intoxicating qualities.

An obvious danger of the dispensary system is the temptation to accept undue profits constantly besetting those who purchase the state liquor. Any one in the least familiar with the methods of the liquor trade knows that, under the keen competition existing, inducements in the line of rebates or commissions are held out to those who purchase goods,

especially if it be for others. Without any apparent detriment to the interest of the person for whom the liquor is bought, by way of exorbitant prices being paid for it, only the strictest honesty prevents the purchaser from receiving emoluments for which he cannot be held to account, which remain a secret between him and the seller, but which it was not intended he should receive. The implication is that, when this temptation is not withstood, it becomes the immediate interest of the purchasers to push the sale of liquors to the utmost: hence the twofold danger.

Considerable difficulty has been experienced in obtaining trustworthy men to conduct the business of the county liquor-shops. Under the strong opposition to the opening of such places and to the law in general, the vocation of dispenser has not been attractive to the better class of men. Some of those employed have at times been short in their accounts, and in other ways have shown themselves unfitted for the trust. Latterly the body of dispensers is supposed to have been much improved, and, a rigid system of book-keeping being insisted upon, the temptation to peculations is less. But even now the men are not recruited from citizens of any particular standing in the respective communities.

The method of compensating county dispensers, fixing their salaries according to the business done, gives the key-note to the manner in which they conduct it. To contend that the element of private profits has been eliminated from the dispensary liquor traffic is thus seen to be idle. In principle the county dispenser is placed on a level with the private dealer: both have the same motive to push trade — private gain. Only few dispensers receive the maximum compensation now allowed; but should the size of the sales warrant it, there is no reason to believe that the present salary limit will be adhered to.

As may readily be inferred, the method of compensation

goes far to nullify the legal restraints placed on the sale. The regulations of the law, that the purchaser must present a written or printed request, giving name, age, residence, for whose use the liquor is intended, are generally disregarded. The customer simply makes a verbal request, giving his name and the kind of liquor wanted. As a rule further parlance is unnecessary. That the purchaser is totally unknown to the dispenser apparently makes no difference, although the law requires the identification of strangers. That more than one order is filled for the same person in one day was noted; furthermore, that orders written by strangers, and carried by children, are promptly attended to. Purchasers are rarely questioned as to their ages, although the majority of some of them would instantly be challenged, were that point considered of sufficient importance. Intoxicated persons are turned away, but there is nothing to prevent them from making purchases through others. Several dispensers intimated that more than a formal compliance with the law is not insisted upon. This was not explicitly denied at headquarters. Indeed, the safeguards of the law cannot well prove effective while there is a source of private profits in large sales. Furthermore, the press of business at some dispensaries is too great to permit of an elaborate mode of procedure in making the sales.

But for the extensive patronage of the negroes, the dispensaries would not fare well financially, because of the antipathy to the state liquor traffic among the white residents of towns and cities, in which nearly all the shops are located. The staple articles of trade are the cheap grades of whiskey. As sold by the State, beer is as yet too expensive a beverage to be generally indulged in. The rate of profit charged by the county dispensaries varies greatly and according to the quality of the liquor. To cite a few instances: —

Eighty per cent. Rye, Corn, and Bourbon,	profit	12	per cent.
X Rye, Bourbon, etc.	"	16	" "
XX "	"	17	" "
XXX "	"	19	" "
XXXX " and Scotch	"	27	" "
Beer	"	25	" "
Ale	"	18	" "

The profits charged on the low grade of goods are not such as to discourage consumption; and unless the State sells nearly at cost, it cannot prevent illicit selling from being remunerative. A comparison of the profits on the low and high grades would therefore seem to lead to the conclusion that efforts are not made to diminish the consumption of the liquors constituting the bulk of the traffic.

ENFORCEMENT OF THE LAW.

It is quite within the truth to say that no substitute for a license system has been so thoroughly enforced in this country as the dispensary act of South Carolina. On social and political grounds the opposition to the law has been and is exceedingly bitter. Yet while it cannot be said that the law is no longer evaded even by the private citizen who never traded in the contraband goods, its mandates are generally heeded, but from necessity rather than from choice. A strong force of constabulary, which may be augumented at will by the governor, is everywhere at work ferreting out violations of the law, watching railroad stations, steamboat landings, express offices, and other avenues of commerce. Having large powers, they make the importation of contraband liquor a most difficult operation, no matter under what disguise it may be shipped. Barrels and boxes apparently containing flour, pork, and other merchandise are frequently searched for liquor. Every suspicious looking package may be retained twenty-four hours for examination. But quite as effective, if not more effective, than the presence of constabulary is the offer of the reward of twenty

cents per gallon for information leading to seizures. By this means the authorities have frequently learned in advance that on such and such a day a certain consignee would expect a shipment of liquor. Private persons no less than the would-be seller have learned to dread the informer. Fear of him again necessitates extreme caution on the part of the violator of the law over against his customers.

Two legal measures force an oftentimes unwilling obedience to the law. One is the threat to withhold from the incorporated communities their share of the dispensary earnings for neglect to suppress the "blind tigers." In more than one instance municipal authorities have acknowledged that fear of losing the revenue has necessitated a semblance of police activity in executing the law. The other is the metropolitan police, which hangs like a sword over the heads of several of the larger cities. It is dreaded, not only because of the awkward entanglements it might cause, but even more on account of the new power the ruling party would wield through it.

In every municipality, with the exception of Charleston, the law is well enforced, and even in the latter contraband liquors have ceased to be an important factor in consumption. Many "blind tigers" still survive, but they lead a precarious existence; in numerous places they have been driven to become ambulators (pocket peddlers). Charleston is believed by the best authorities to harbor from 100 to 150 places where liquor is sold with more or less regularity. When other supplies fail them, the illicit venders can always sell the State protected malt liquors. Brewery delivery wagons are commonly seen unloading goods in front of notorious "blind tigers." The goods cannot be seized, since the dealer solemnly asserts that they are for his own use. The State Board of Control is itself responsible for the continuance of much of the illicit traffic in Charleston,

and has placed strong obstacles in the way of the police, who display much activity in enforcing the law. The real difficulty, however, lies in the fact that the "blind tigers" draw patronage from the otherwise law-abiding members of society, and that it is impossible to secure convictions. Citizens to whom the epithet "lawbreakers" would seem the least applicable, do not hesitate to smuggle in liquor. Attempts to secure communion wine in this way have recently been made. Threats of "trouble," meaning bodily conflict, should constables attempt a search of their homes, are still made by men who, both from their professions and standing, are accounted the most peace-loving of citizens.

While the municipalities are more and more brought under the stern hand of the dispensary system, it is not so with many rural districts where the liquor traffic was formerly little known, that northwestern portion of the State referred to as the "Dark Corner" always excepted. There the United States revenue officers have for years waged war against "moonshiners" with indifferent success, and the state authorities are equally powerless to suppress them. From the hill districts the itinerant liquor peddler obtains his supplies, or he may smuggle them across the northern border through other than the usual channels of commerce.

At all events, from the various sections of the State come reports like these, in response to inquiries made by the writer: "There has been a marked increase of drunkenness in the county, as 'blind tigers' may be found at every cross-road, and whiskey wagons do a large business." From another county: "Drunkenness and disorderly conduct have very materially decreased in the city, but have very greatly increased in the country outside the city, where they have no police protection or vigilance," etc. Evidence is thus at hand warranting the belief that the rural districts are beginning to suffer the very ills from which they wished to relieve the town through the dispensary system.

The distilleries, although having the State as chief customer, are not inclined to obey its laws. Not a single one of the forty-three registered distilleries has so far made the returns of its business required by the dispensary act. Efforts to compel them to do so have led to conflict with the federal authorities. Several distillers have been accused of selling liquor to consumers, and keeping "a large-sized 'speak-easy' establishment in conjunction with their distillery."

Notwithstanding these numerous leaks, the State monopoly is, on the whole, well protected. The most conclusive evidence on this point comes from wholesale liquor-dealers in Augusta, Atlanta, and other cities in Georgia who testify that since the introduction of the dispensary system their business with South Carolina has almost ceased.

The increase of convictions in the United States courts for violations of the revenue laws does not, as has been held, indicate a proportionate growth of the illegal traffic. For an extended period subsequent to the enactment of the first dispensary law, dealers did not hesitate to protect themselves against the federal authorities by paying the required special tax. Now but very few dare do so, lest they furnish evidence against themselves to the State. But if caught selling without having paid the United States tax, they are generally convicted in the federal courts.

The attorney-general in his report for the year ending October 31, 1893, cites in all forty-five prosecutions, most of them in Charleston, which up to that time had been brought for violation of the dispensary act; not a single one resulting in a final conviction. 'It was then believed that the severity of the penalties precluded the possibility of city juries rendering a verdict of guilty. The proposition was agitated of dispensing, if possible, with jury trials in liquor cases, and to impose the duty of trying them upon a special officer . . . to be designated in each county. Pending the

decision of the Supreme Court as to the constitutionality of the law, it was natural that the difficulties in obtaining convictions should continue, notwithstanding the lighter penalties provided. The two decisions of that tribunal taking opposite ground did not mend matters much. The disrespect in which the law was held by many had, if anything, grown.

From the report of the attorney-general for the year ending October 31, 1894, it appears that only one conviction resulted from the many arrests of illicit dealers. This solitary case was for "hauling liquor;" and since the penalty involved a fine of less than $100, action could be brought before a trial justice. In ninety-four cases, true bills were not found, or they were "discontinued." Three trials by jury resulted in the verdict, "not guilty." The majority of these cases originated in Charleston. In his message of 1894 Governor Tillman said of this city: —

"The temper of the people is such that it is idle to expect juries to punish lawbreakers in whiskey cases; and the same is true of Beaufort and some other places. Last year I advised reduction of penalties and fines, and placing the administration in the hands of trial justices. It was a mistake. Most of the illicit selling is by townspeople, and the juries in the towns will not convict, no matter how clear the evidence."

The truth of the latter assertion has been demonstrated in Charleston. From December, 1894, to the middle of April, 1895, 204 arrests for illegal selling were made by the police. In each case liquor was seized on the premises, and the finding of it is *prima facie* evidence of violation of the law. The grand jury refused to consider the most positive evidence. Case after case was thrown out. Only one came to a jury trial, and that had no result. On the grand jury was, among others, a man who had himself been arrested under the dispensary act. The only conviction obtained so far in Charleston has been in the case for hauling liquor,

heard before a trial justice. How far the number of cases brought to the attention of the courts correspond to the number of arrests made under the dispensary law is not known. Complete returns from the police are lacking, and the doings of the constables are not published. At present the latter seem to apply themselves to the prevention of smuggling, and less to securing evidence against "blind tigers." The confiscation of contraband goods is apparently regarded as sufficient penalty in some cases, and prosecutions are not made, especially when the attempted smuggling is shown to have been for private use only.

The feeling against the law was illustrated at the first jury trials of dispensary cases which have taken place in Columbia (April, 1895). The judge placed every juryman presented under his *voir dire*. When the second case was reached, the panel had already been exhausted. Quite a number of jurors were excused by the court since they confessed inability to overcome their prejudices against the law and return a verdict simply on the facts. The second day of the trials it was reported that "some of the very best men in the community were excused from serving on the jury" for the reasons given. In some of the cases tried at this time the jury were unable to agree; in others the plea of guilty was entered, with the understanding that only a light penalty should be imposed.

If the courts have been brought into disrepute by the opponents of the dispensary system, its advocates are equally to be blamed. The judges who have taken a stand against the law have been repeatedly vilified by the administration, accused of partisanship, and at an opportune moment have been pushed aside. Constables who have been convicted of various offenses have been pardoned by the executive. The tardiness with which the State has proceeded, if at all, against dispensers found short in their accounts is evidence of the same nature.

If the arrests for drunkenness can be shown to have decreased materially under the dispensary law, the inference is warranted that consumption has fallen off in some proportion.

Charleston had in 1890 a population of 54,955. The colored inhabitants constituted 31,036, and no class of distinct drinking propensities, such as is commonly found in large manufacturing towns, exists. On the whole the conditions do not seem unfavorable to the enforcement of stringent liquor laws. In 1892 the city contained 285 places where liquor was sold, each paying $110 annually for the privilege. The local ordinances regulating their business were by no means severe nor rigidly enforced. The passage of the dispensary act caused some dealers to retire or go elsewhere. Others preferred to remain and take all risks. How grossly the law was violated at first has already been shown. Not until toward the close of 1894 had a systematic war of extermination been carried on against the "blind tigers," and still many of them live, but in numerous cases in a state of semi-captivity. In spite of these untoward circumstances, the arrests for drunkenness have diminished in a remarkable degree under the dispensary system, as shown by the following statistics : —

In 1888 the total arrests for drunkenness, and for drunkenness and disorderly conduct, 715, or 13.25 per 1,000 inhabitants; in 1889, 868, or 15.93; in 1890, 801, or 14.57; in 1891, 849, or 15.31; 1892, 690, or 12.33; 1893, 412, or 7.29; 1894, 459, or 8.06.

The relatively low rate of arrests per one thousand inhabitants for all the years given must be ascribed to the comparative sobriety of the city rather than to a lax police régime. While the punishment for intoxication does not probably act as deterrent to a perceptible degree, the authorities show quite the ordinary zeal in removing

drunken persons from the streets.[1] The falling off for 1892 has not been accounted for as due to any abnormal conditions. The statistics for 1893 show that, although the dispensary act went into force only in July, and illicit selling remained common, the arrests per 1,000 inhabitants fell off 40.87 per cent. as compared with 1892, and 52.38 per cent. as compared with 1891. The increase in 1894 over the former year was unquestionably due to the closing of the dispensaries from April 22 to August 1, and the freedom with which liquor was sold for some time after they were opened again. For the two quarters ending June 30 and September 30 that year, the arrests exceeded those for the first and last quarter by 56.42 per cent. The charge that antipathy toward the dispensary law has induced the police to refrain from making arrests with the former zeal lacks substantiation.

Columbia, the second city in South Carolina, had in 1890 a population of 15,352, of which 8,789, or 57.24 per cent., were colored, and only 321 of foreign birth. In 1892 it had 38 bars paying low fees; the restraints upon the licensees were few. As the capital of the State, one of the largest railway centres, and containing a number of large factories, it was not surprising that Columbia should support an extensive liquor traffic. The process of putting down the illegal venders when the dispensary act went into force was slow. Not until the metropolitan police bill passed, December, 1894, did the municipal authorities push the work with some vigor. A study of the statistics indicates, contrary to the assertion of city officials, that the arrests for drunkenness have fallen off to an appreciable extent.

In 1891 total arrests for drunkenness, 247, or 15.85 per 1,000 inhabitants; in 1892, 201, or 12.71; in 1893, 187, or 11.66; in 1894, 182, or 11.19.

[1] Previous to 1894, the incorporated communities regulated the penalty for drunkenness in the absence of a general law. Usually it consisted in a fine of $5 to $10, or imprisonment for one or several weeks.

The reduction per 1,000 inhabitants in 1893, as compared with the preceding year, was 8.26 per cent., and as compared with 1891, 26.43 per cent. During the first part of 1893, only a fraction of the saloons doing business in the preceding year kept open. The unlicensed traffic did not increase materially when the dispensaries closed; the authorities did not, as elsewhere, grant beer and wine licenses; and in consequence the arrests for May, June, and July, 1894, do not show any increase over other months of the year. From 75 to 80 per cent. of the persons arrested for drunkenness are colored. It is stated that drunkenness among the rural population in the vicinity of Columbia is more common than before.

For Greenville, the third largest city in the State (estimated population in 1891, 6,405; in 1894, 7,140), the statistics are: —

Total arrests for drunkenness and disorderly conduct in 1891, 938; 1892, 1,142; 1893, 651; 1894, 525.

About one third of the arrests should be deducted, for they are for disorderly conduct not caused by drink. A great improvement is seen to have taken place under the dispensary system (1893); this, however, is attributed to the "severe punishment and heavy fines imposed for violation of city ordinances by the present city administration" (which took office in September that year). These are treble the amount of the former penalties, and would, it is asserted, "preserve the same order we have now if the 16 barrooms were open, as we had them before the dispensary act became law." But in the two months preceding the present administration the law had been in operation and caused a notable diminution in arrests.

In other cities of the State, Spartanburg, Aiken, Orangeburg, Florence, Darlington, Georgetown, and the rest, the information collected shows conclusively that the arrests for drunkenness have fallen off from one third to one half under the dispensary law.

It is then, beyond all cavil, true that in the cities and towns formerly under license the dispensary law has promoted sobriety and in a truly wonderful degree. The many evils inseparable from the saloons, and which have been abolished with them, need not be dwelt upon. It is equally self-evident that less drinking means better conduct and greater peace in the community.

As to the effects of establishing dispensaries in places formerly under prohibition, advocates of prohibition assert that no-license has generally proved a success, while the dispensary advocates assert that the illicit sales in "dry" towns far exceeded the present transactions of the state liquor-shops and were productive of greater evil.

Judging from the reported sales of some dispensaries, their capacity in distributing intoxicants is far greater than that of ordinary saloons. Thus in one place of less than two thousand inhabitants, which formerly had two bars, the monthly sale of liquor has reached the sum of about $2,700, which would equal $32,400 per year and yield a profit to town and county of about $5,000. The policy of compelling the purchaser to buy more than one drink at the time — never less than one half pint — is a questionable method of encouraging consumption and is by some believed to have stimulated home drinking. The increase of drunkenness in many rural districts due to the traveling "blind tigers" has already been noted.

So far as the cities and large towns are concerned, the dispensary system has already reached the limits of its usefulness as a temperance agent. Any further addition to the state liquor-shops in the cities where they already exist would be a direct invitation to drink. With the law so generally and rigidly enforced as at present, any multiplication of dispensaries in semi-rural districts can have no other purpose than to raise revenue and put more wheels into the political machine.

While the unbiased observer cannot fail to be impressed by the changes wrought by a system which has closed the saloons and nearly suppressed the illicit traffic, thousands remain blind to them. The political opponents of the dispensary authorities most often deny that aught good has been accomplished. The prohibitionists will frequently not even admit that drunkenness has been reduced; the system never had nor can have any affiliations with radical temperance reformers.

1895.

Since the above was written, the dispensary law has on several occasions figured in the courts, but its constitutionality is still to be passed on by the United States Supreme Court. Meantime the barroom, where liquor is retailed by the glass, has been banished from South Carolina. The Constitutional Convention of 1895 framed an article on intoxicating liquors, which leaves it optional with the legislature to continue the dispensary system, or to pass a prohibitory law, or to grant licenses for the sale of liquor in packages, not to be consumed on the premises. It is also provided that the State's share of the profits from the traffic shall be devoted to the public schools.

The business of liquor selling at the dispensaries is flourishing.

On January 17, 1897, the United States Supreme Court decided that those provisions of the South Carolina dispensary law which forbid citizens of the State from importing liquors into the State for their own use are in contravention of the Interstate Commerce clause of the national Constitution, and therefore invalid. The decision leaves the question whether it is competent for a State, in the exercise of its police power, to monopolize the traffic in intoxicating liquors and thus put itself into competition with the citizens of other States, in abeyance.

1897.

The dispensary act has been twice reënacted bodily, in 1896 and again in 1897, apparently for the purpose of avoiding the effects of previous decisions of the courts by securing a pretext for fresh argument on an alleged new act. Two important changes in the law must be noted: (1) A State Board of Control, of five members, is now elected by the General Assembly, to serve for one, two, three, four, and five years respectively; formerly the board consisted of the governor, the comptroller-general, and the attorney-general. (2) A provision relative to the importation for private use of liquors from without the State requires samples of such liquors to be analyzed by the State Chemist in advance of their importation, and that his certificate as to "purity" be attached to each package purchased. By prescribing an impracticable examination of liquors on the ground of public welfare, it was hoped to circumvent the tendency of previous court decisions to allow the importation of liquors for private use. But the United States Supreme Court, in the case of Scott and Donald (17 Sup. Ct. Rep. 265), on the right of a person in South Carolina to purchase wine from California, held that so far as the dispensary act prohibits this it was unconstitutional. Although the court did not pass upon the abstract right of the State to regulate the liquor traffic on the dispensary plan, the language of the decision was construed to imply the doom of the dispensaries. This belief became so universal that "original package" stores were at once opened in great numbers and sold liquors freely. The United States Circuit Court, on trial, held this business to be lawful, and the case of Vance *v.* Vandercook Company was carried up on appeal to the United States Supreme Court, all questions being by consent raised in the record. The decision of the Supreme Court (May, 1898, 18 Sup. Ct. Rep. 674) proved a shock to the liquor interest. It so far reversed the decision in Scott and

Donald as to hold that, while persons may import liquor for private use, they may not sell it even in the original packages.

But of far greater importance was the declaration that the dispensary acts in their essential features are valid, that is, furnish a proper and constitutional method of regulating the liquor traffic through the domestic police power, and that the State may take sole charge of the business. For the first time in its history, the dispensary system is no longer hampered by court decisions, but has been left by them in a reasonable and on the whole satisfactory state.

The present condition of the system in South Carolina may be summed up as follows: —

The dispensary question is no longer a serious factor in politics. At a State Democratic Convention this year (the white people of the State) the system was indorsed by a very large majority. It is still opposed by the Prohibitionists on principle, and by the remnant of the "Straight Out" party (Conservatives) for politics. But the former seem inclined to accept the law, at least as a stepping-stone to more rigid legislation, and the "Straight Out" party is politically dead, party lines being formed on new issues.

The liquor interest (the "Blind Tigers" excepted) is demoralized and has disbanded. In certain localities "Blind Tigers" are still quite numerous, but wield little influence politically and are getting into public disfavor.

The privilege to import liquors for private use has robbed the "personal rights" people of their chief grievance, and thus diminished the opposition to the system. The loss of the patronage of the comparatively few who will go to the trouble of buying liquor out of the State cannot seriously affect the business of the dispensaries.

1898.

THE RESTRICTIVE SYSTEM IN MASSACHUSETTS, 1875–1894.

After a trial of prohibition covering several years, Massachusetts, in 1874, returned to a licensing system.

The law of that year placed the licensing power in the hands of the mayor and aldermen of cities and selectmen of towns, authorizing the appointment of license commissions in cities by the mayor, with concurrence of the city council. Six classes of licenses, each license to run for a year, were provided for: Class 1, to sell liquor of any kind, to be drunk on the premises, fee, minimum, $100, maximum, $1,000; class 2, to sell malt liquors, cider, and light wines containing not more than 15 per cent. of alcohol, to be drunk on the premises, fee $50 to $250; class 3, to sell malt liquors and cider, to be drunk on the premises, fee the same as class 2; class 4, to sell distilled liquors of any kind not to be drunk on the premises, fee $50 to $500, in no case less than $300 unless the distiller's annual output was no more than 50 barrels, when the minimum fee was to be charged; class 5, to sell malt liquors, cider, and light wines containing not more than 15 per cent. of alcohol, not to be drunk on the premises, $50 to $150, brewers to be charged from $200 to $400, according to the value of business; class 6, license to druggists and apothecaries to sell liquors of any kind for medicinal, mechanical, and chemical purposes. The main conditions of license were that no sales be made between midnight and 6 a. m., nor on Sunday, except by innholders; that only good and unadulterated liquors be vended;

no sales be made to a drunkard, or an intoxicated person, or a minor; no disturbance, indecency, prostitution, lewdness, or illegal gaming be allowed on the premises licensed or connected therewith by interior communication. Licenses of the second, third, and fifth classes were made subject to the further condition that only the classes of liquor defined be kept on the premises licensed, and those of the first, second, and third classes to the condition that the licensee should not keep a public bar and should hold a license as an innholder or common victualler, which mayor and aldermen and selectmen were authorized to grant. The licensee was required to provide a bond of $1,000. Penalties for violating the conditions of a license were fixed at a fine of from $50 to $500, or imprisonment, one to six months, or both fine and imprisonment; in addition, the license to be forfeited, and the holder disqualified from renewing it for one year; for furnishing liquor to a minor, a fine of $100; for failure to comply with the request of a wife, child, or guardian that liquor be not sold to husbands or parents or ward, a fine of $100 to $500; for selling without a license, fine $50 to $500, or imprisonment one to six months, or both. Delivery of liquor except for a private house was declared to be *prima facie* evidence of sale. The term "intoxicating liquors" was defined as including ale, porter, strong beer, lager beer, cider, and all wines, as well as distilled spirits. The licensing authorities or any officer authorized by them was empowered to enter licensed premises at any time, to observe the conduct of the business, take samples of liquor for analysis, and so on, and these authorities might declare a license forfeited when conditions were violated. A state inspector and assayer of liquors, to analyze all samples sent him by mayors and others, was provided for.

The various amendments to this law which were enacted from 1876 to 1880 embodied no radical departure, but

were chiefly designed to strengthen it and to provide penalties for any infringement. These amendments, briefly stated, were as follows: —

In 1876, a search warrant act prescribing minutely the mode of procedure against persons suspected of illegal selling, the warrant to be issued on the complaint of two persons provided the justice or court is satisfied of the truth of the complaint. Arrests of persons in the act of selling illegally may be made without a warrant. In case an officer neglects to institute proceedings after being furnished with a written notice of a violation of the law, it is provided that any person thereafter making a complaint shall be entitled to all fines imposed and collected. In 1878, acts to prevent bringing liquor intended for sale into places where licenses for the five classes enumerated are not granted; providing for the recovery of damages by parent, wife, or child, caused by the use of liquors sold; requiring the consent of the owner of the building in which it is proposed to exercise a license. In 1879, an act transferring the licensing power for the city of Boston to the board of police commissioners. In 1880, acts requiring the specification in each license of the first three classes, innholders excepted, of the room or rooms in which liquor may be sold; the removal of screens, blinds, and other obstructions to a view of licensed premises; that no sale be made to a minor for the use of parent or any other person, or to a person known to have been intoxicated within the six months next preceding; that in case a judgment awarded for injuries remains unsatisfied for thirty days the license be revoked; and defining intoxicating liquor to be any beverage containing more than 3 per cent. of alcohol by volume at 60° Fahrenheit.

In 1881 a local option law was passed, providing for the granting of licenses only in cities and towns voting at the annual election or meeting to authorize their issue, the

vote to be taken by separate ballot, "yes," or "no." Towns voting "no" might grant druggists' medicinal licenses. The same year the severity of the "screen law" was increased, any obstruction to a view from the street being declared a sufficient cause for nullifying a license.

In 1882 acts were passed requiring sureties on liquor bonds to make sworn statements as to property qualifications; prohibiting the granting of licenses of the first three classes for sales in any building or place on the same street within four hundred feet of a public school; providing that upon written notification to the licensing board of objection by an owner of real estate adjoining premises for which a license is sought, the license shall not issue, or if granted may be revoked. In 1884 additions were made to the conditions of licenses, prohibiting the sale or delivery of liquors to a person known to have been intoxicated within six months, or one known to have been supported by public charity at any time within twelve months. In 1885 the licensing power for Boston was vested in the board of police commissioners appointed by the governor of the Commonwealth. Other acts of this year were measures directed against the improper canceling of liquor cases in court; restricting sales to the hours between 6 A. M. and 11 P. M., with the exception of sales by innholders, who were allowed to supply duly registered guests; prohibiting sales on election days, with the same exception; and empowering mayors and selectmen to issue notices to dealers not to sell or deliver liquor to a person of intemperate habits, making neglect to comply therewith within a specified time cause for action for damages for the benefit of the relatives or guardians of such person.

In 1887 and 1888 the acts were many and varied. In the former year the issue of special club licenses, revokable at any time by the licensing authorities, were authorized, all places used by unlicensed clubs for the sale or dispensing

of liquors being declared common nuisances; the act of 1882 withholding license from premises upon the written objection of owners of adjoining real estate was so amended as to admit objections by owners of real estate within twenty-five feet of such premises; mayors or selectmen were empowered to forbid sales by licensees of the first three classes in case of riot or unusual excitement, but not for more than three days at a time, the penalty for failure to obey such order being fixed at a fine of $200 for each offense and forfeiture of license; conviction of a licensee for violation of any of the liquor laws was declared of itself to make the license void; the seizure of implements or sale of furniture used in selling liquor illegally was authorized; the granting of a sixth class license to retail druggists to sell for medicinal, mechanical, or chemical purposes alone, upon the certificate of the purchaser, stating the use for which the liquor is desired, record, open to inspection, to be kept of each sale, was authorized; and provision was made for the forwarding of confiscated liquors to the chief of the district police, to be sold by him for the benefit of the State. The acts of 1888 prohibited sales on Fast, Memorial, Thanksgiving, and Christmas days (or on December 26), except by innholders to duly registered guests; added a further condition of license, that a common victualler shall not sell or give away liquor on election days; prohibited the exercise of a license of the first five classes in a dwelling or in any room having interior connection with a dwelling or tenement; limited the number of licenses to one for 1,000 inhabitants, except in Boston, the proportion there to be one to 500; and in towns having an increase of resident population during the summer months, the selectmen in such towns being empowered to issue one to each 500, to run from June 15 to September 15, provided the town votes "yes" on the license question; further defined intoxicating liquor to be any beverage containing one

per cent. of alcohol at 60° Fahrenheit; and increased the license fees: first class, not less than $1,000, second and third classes $250; fourth class, $300; fifth class, $150; and sixth (druggists), $1.

In 1889 the penalty for violations of the liquor laws was made fine ($50 to $500) and imprisonment from one to six months, a licensee (except druggist) if convicted forfeiting his license and being disqualified for one year. This year, also, acts were passed prohibiting the issue of licenses to druggists and apothecaries not registered pharmacists; empowering the licensing board to transfer licenses from one location to another in the city or town in which the licenses are in force, such privileges, however, to be granted only to original licensees; prohibiting licenses of the fourth and fifth classes, except wholesale druggists, from selling on election days; and permitting sales during special elections in wards where no election takes place. In 1890 a penalty was fixed for the employment of any person under eighteen years of age to serve liquor in a place where it is sold for consumption on the premises. In 1891 each license of the first, second, and third classes was made subject to the further condition that the licensee shall hold a license as an innholder or common victualler, and shall not serve liquors at table in any room where the exclusive business is liquor-selling; and the issue of temporary licenses (taking effect July 1 and expiring October 1) in cities and towns voting "yes" was authorized on the basis of one to 500 inhabitants, the enumeration to be made by the Bureau of Labor Statistics.

In 1894 further provisions were made with respect to sureties, the number of bonds upon which a person, firm, or corporation may be accepted as surety being limited to ten, and each surety being required to make sworn statement that he is not surety on more than nine other bonds. This year, also, an act was passed providing for the estab-

lishment of boards of license commissioners in cities not having a license commission, or board of police created by special statute or under a charter, or voting at their last election against license: such board to be appointed by the mayor with the concurrence of the council, and to exercise the powers formerly imposed upon the mayor and aldermen relative to intoxicating liquors as well as to innholders and common victuallers. In case a city should afterward vote not to grant licenses, it was provided that the obligation as to license commissioners should cease, and the power heretofore exercised by mayors and aldermen revest in them. Other acts of 1894 were relative to illegal sales by incorporated clubs, directing the secretary of the Commonwealth to publish such incorporations as void; and with respect to druggists' licenses, prohibiting the issue of such license to any person not a registered pharmacist actively engaged in business on his own account, or to any registered pharmacist who does not present a certificate from the State Board of Registration in Pharmacy indorsing him as a proper person to be intrusted with it. In 1895 sales were prohibited on the Nineteenth of April and the Fourth of July.

The results of the present methods of dealing with the liquor traffic (license by statutory limitation, high fees, and so on) may be more clearly apprehended when brought into contrast with those of earlier methods. Two communities were chosen for study: Boston, the chief city and centre of the liquor trade, and North Adams, a town in Berkshire County, in the western part of the State, the latter as representative of the smaller communities under license.

I. THE LIQUOR TRAFFIC IN BOSTON.

UNDER THE LICENSING COMMISSIONERS, 1875–1879.

After the enactment of the law of 1875, the authority to grant licenses in Boston was vested in a board of three members appointed by the mayor, subject to the approval of the City Council. Since this board had no organized connection with the Police Department, upon which the final enforcement of the liquor laws depends, its functions were generally limited to the distribution of licenses, and to hearing complaints. The board might issue orders, but it had no power to compel their execution.

The conditions confronting the first boards were peculiar and perplexing. During the later years of prohibition no serious attempts had been made to enforce the law. The commissioners had to deal with persons accustomed to non-interference, and hence not easily brought to heed the restrictions even of a mild license law.[1] The three principal abuses were deemed to be the sale of impure liquors, the Sunday traffic, and late hours. Much fault was found with the penalties prescribed for illicit sales and with the mode of procedure to secure convictions.

The earliest amendments (the search warrant act and forfeiture clause) did not appreciably improve the conditions. When the next board entered upon office, May 8, 1877, the chief of police reported that liquor was sold at 2,341 places. But since only 1,055 places were licensed

[1] "Liquor selling in this city is, to a large extent, in the hands of irresponsible men and women, whose idea of a license law ends with the simple matter of paying a certain sum; the amount making but little difference as long as they are left to do as they please after the payment. Besides the saloons and barrooms which are open publicly, the traffic in small grocery stores, in cellars and in dwellinghouses, in some parts of the city, is almost astounding. The Sunday trade is enormous, and it seems as if there were not hours enough in the whole round of twenty-four, or days enough in the entire week, to satisfy the dealers."

during the year, "the law was violated at 1,300 to the knowledge of the police." Among the licensed dealers there was widespread discontent because they were unprotected against the unlicensed. "Juries failed to convict persons who proved that they had been willing to take out licenses and live under them." (Report of Commissioners.) The character and standing of the police force had also suffered, for "the opinion was widespread that without the tacit approval, and in some cases the absolute protection of the officers especially detailed to enforce it, so many persons could not live in open violation of the law the police were bound to enforce equally with any other."

To obviate these evils more licenses were issued. In fact, every person who came to the board "properly recommended" was granted a license. In consequence the number was increased by 1,101, giving 149 inhabitants to each license in 1878 against 267 in the preceding year. The measure resulted in compelling most of the liquor-dealers to take out licenses, with large gains to the city treasury.

The freer granting of licenses was followed by a "marked improvement in the respectability and good order of the places, and a stricter conformity to the law." While asserting this, the commissioners complained of one great obstacle — the unwillingness of the public to aid them and furnish evidence of violations. Anonymous complaints were not lacking, but "even avowed prohibitionists refused to sign complaints."

It is interesting to observe that the commissioners believed that the consumption of distilled spirits was decreasing. Wholesale dealers and distillers reiterated the assertion, and on this ground demanded a reduction of license fees. If an actual decrease had taken place, it was of short duration, for later they paid trebled fees without a murmur.

The following year, 1879, was the last under license

commissioners. Their powers were now, by legislative act, vested in a Board of Police Commissioners appointed by the mayor. The license law had been in operation for four years, and some marked changes had been wrought. In December, 1874, the chief of police reported the number of places where liquor was sold to be 3,090, a large proportion of which had facilities for drinking on the premises. In September, 1875, when the law had been in operation four months, there were 1,897 licensed and 586 unlicensed places. In May, 1877, the police stated that of the 2,341 places but 1,167 were licensed. In 1878, according to their figures, the number had decreased to 180, and in 1879 to 101. This improvement, real though it was in one sense, had been accomplished only by greatly increasing the number of licenses. While many seizures were made, and not a few licensees forfeited their privileges, the task of inculcating thorough respect for the law among licensed dealers had made slight advance. The grossest abuses, such as selling to minors, to intoxicated persons, on Sundays, and after hours, continued much as before. The last board of license commissioners, especially, had evinced much zeal in performing its duties, but it lacked the powers to carry out a lasting reform.

The causes leading to the abolition of the board appear to have been two: (1) The desire to centre the licensing power in a body with every means of enforcing the laws at its command; (2) dissatisfaction with the last board, which had displayed too earnest a reform spirit to suit the dealers, who hoped for a more lenient régime under men whose actions would largely be determined by political considerations.

UNDER THE POLICE COMMISSIONERS, 1880-1884.

The liquor element had not reckoned amiss. The first two years under the police commissioners as the licensing authority were distinguished by fewer complaints against privileged dealers, a decreasing number of forfeitures of licenses, and less interference with the unlawful traffic, while more licenses were granted than in 1879.

New legislation had been devised to put the licensed dealers under further restraint. Nevertheless, dealers found it profitable to evade the law on every side.

The difficulty of regulating the traffic in Boston was perceptibly increased when the local option law went into effect in 1882. Many of the surrounding towns, with large and rapidly increasing population, at once took advantage of the new measure, and outlawed the saloon. This not only drove many dealers into Boston, who found there a better opportunity of plying an illicit traffic, but also drew a new class of customers to this city. Licenses were granted with as much liberality this year as before, but a promising activity in enforcing the law is observable in the number of complaints entered against both licensed and unlicensed places. This, however, must mainly be accredited to the work of a new organization, "The Citizens' Law and Order League," which had for its sole object to secure compliance with the liquor laws. Backed by some of the most influential men of Boston, this society kept a strict watch over the dealers. Of equal importance, perhaps, was its work in promoting new legislation or in amending that already existing. It was contending against great odds, and "had at first little sympathy and less help from public officers."

As political appointees, the police commissioners were swayed by political influences. They, as well as those under them, could not retain office and ignore party dictation.

The dealers knew that their advantage lay in controlling, so far as possible, municipal elections, and bent every energy to that end. Their immediate representatives sought and held important places in the city government, where they could exert a direct influence on the board of police.

They formed a compact and highly perfected organization. The small liquor-shop keepers were controlled by their bondsmen, largely brewers and wholesale dealers, and readily did the bidding of the latter for the protection enjoyed or from necessity. In fact, the liquor power was at this time virtually a few men's power. In 1884, for instance, twenty-five wholesale dealers were sureties for 1,030 saloon-keepers. Three brewers were on 328 bonds; one more was on 112, others on from 8 to 109 apiece. Twenty-five men had thus assumed a moneyed liability of $2,060,000 — some a liability in excess of the value of their property. Even policemen were accepted as sureties on the bonds of liquor-dealers.

As a further example of the unremitting labor of the liquor element in municipal politics, in 1884 both the chairman and 73 members of the city central committee of the dominant party were liquor-dealers.

Some interesting testimony relative to the power and influence of this element appeared at the hearings on the metropolitan police bill. Two extracts follow: —

"If we were to do our duty we should not retain our places for a single week." (Testimony of policemen.)

"There are men in the city government whose interests are affected one way or another by the enforcement of the law (liquor), and these men naturally have much influence with the police commissioners. . . . A man cannot rise above the source of his appointment, and if a man is under obligations to men principally engaged in the liquor traffic he has got to wink at a great many things." (Testimony of General A. P. Martin.)

To the policemen the dealers could and did say, "Let

us alone, or off come your buttons." Knowing that zeal in the performance of his duties would only cost him his place, it was an easy step for the policeman to extend protection to unlicensed dealers for a consideration. That not a few gave way to this temptation is admitted by members of the force at the present time.

One of the most serious consequences of the influence of the dealers with the police commissioners was the licensing of unfit applicants. Notwithstanding the assurances of the authorities that "in all cases careful inquiry as to the fitness of the applicant for a license has been made," remonstrances against certain applicants, on the part of many citizens of good standing, were, as a rule, unavailing. But the authorities could even go to the length of aiding the dealers in escaping from the consequences of uncomfortable laws. When the "schoolhouse law" was passed in 1882, prohibiting the granting of licenses of the first three classes in any building or place on the same street within 400 feet of a public schoolhouse or any building occupied in whole or in part by a public school, 150 dealers were affected by it. Many evaded the law by changing the entrances to their saloons to other streets than that on which a schoolhouse fronted. The majority invoked political aid. The Law and Order League made the never refuted charge that two schoolhouses (one on Harrison Avenue and one on Washington Street) were vacated in order to "save" about a score of saloons.

The liquor element was, however, far from satisfied with the influence it possessed locally. In the first place, the largest freedom could not be enjoyed even under a pliant police board. Secondly, municipal influence could not guard it from the enactment of more stringent laws. Thus it became necessary to work in state as well as local politics, and by choosing its own representatives to oppose all unfavorable legislation.

During 1883 and 1884 there was again an increase in the number of licenses issued. More privileged saloons existed in 1884 than either before or since. The fact that some license fees had been doubled (innholders from $300 in 1883 to $600 in 1884), and others raised proportionately, did not deter the applicants, who were as numerous as ever.[1] Yet the licensed dealers by no means represented the full extent of the trade. The collector of internal revenue, when asked in 1883 the number of places in Boston which had paid a special liquor tax, replied, "We have at least 50 per cent. more than the city authorities." In 1884, 4,000 United States liquor taxes were paid for in Boston, or 1,400 more than the licenses granted. In view of this indisputable evidence, the circumstance that only two complaints were entered against unlicensed places in 1883 indicated a very lax enforcement. An improvement in this respect followed in 1884; but in both years the number of arrests for selling without a license, and of seizures made, showed a falling off as compared with 1882. The significance of this becomes the more striking when it is remembered that of the multitude engaged in the liquor traffic not all could hope to make more than a precarious livelihood without artificially stimulating the trade. As an instance of this overcrowding, is the fact that in 1883 the small space bounded by Lincoln,

1 The following may throw some light on the state of the licensed trade in 1884. One condition of the license of the first three classes was that the licensee should not keep a public bar and should hold a license as an innholder or common victualer. Under the provisions of the law it was held that every common victualer having a license to sell intoxicating liquor for consumption on the premises might keep open shop from 5 A. M. until 12 M. Yet the sale of liquor was forbidden after 11 P. M. and before 6 A. M. unless he held an innholder's license, but no power could compel him to close the shop. In consequence there were about 250 genuine victualing establishments, including hotels, which kept open on Sunday and after 11 P. M., and with some reason, but no less than 1,358 others which did so in violation of law.

Beach, Federal, and Kneeland streets — 350 by 600 feet — contained no less than fifty saloons.

So far the liquor interests had not suffered any serious setback. Licenses were granted without stint, and dealers without them had nothing to fear beyond occasional and passing interference. The conditions of licenses were commonly violated by sales on Sundays, to minors, and so on. Although the screen law had really done some good by preventing the gathering of minors and girls in licensed places, it was not fully complied with. The fate of the schoolhouse act has been noted. The act giving owners of adjoining real estate the right to object to the issue of licenses had not proved generally effective. Although the Law and Order League distributed notices among dealers calling attention to this law in 1883, while over 2,600 licenses were granted, only about 25 owners filed objections. Moreover, objections were not infrequently made for the purpose of extorting blackmail, or the law was evaded on flimsy pretexts. Thus partition walls were erected, the licensee contending that the property in question was no longer adjoining.

The causes of this state of affairs are perfectly explicable. Some have already been intimated, but may again be summarized. The licensing power, as well as the authority to enforce the law, rested with men moved by the strong political influence of the liquor element. The hands of the police commissioners were in a measure tied by the governing powers at City Hall, directed in part by the least scrupulous of dealers. The police either dared not imperil their positions by an honest discharge of their duties or surrendered to the temptations always associated with the unlicensed traffic. Against the few who labored to subject the liquor trade to the restraint imposed by law was pitted the phalanx of dealers wielding with concerted action the power of a political machine. Successful, however, as they

were in practically nullifying certain paragraphs of the law, their combinations to repeal specific legislation, such as the annual vote on the question of licenses, the schoolhouse, screen, and abutters' objection laws, proved abortive. Yet they were ever a power in the General Court, with which both the leading parties sought to curry favor to the detriment of legislation.

To complete the sketch of the conditions of the liquor traffic at the end of 1884, some extracts from the testimony of Mr. Tilly Haynes, of the United States Hotel, given before the committee on a metropolitan police commission at the State House, are adduced below. (Mr. Haynes was himself a licensed innholder.)

"The great trouble in my neighborhood is the insecurity of life and property caused by the gangs of hoodlums who throng about every corner, the disreputable tenement houses which are open and notorious resorts of thieves, and the opportunities for the committal of crime by the liquor-dealers, who violate the law in every conceivable way. On any evening from dark until late at night you will see these roughs on nearly every corner. . . . They watch for men, generally from the country, who may be going to the depots under the influence of liquor. These they speak to, and if possible induce to go into one of the many barrooms to take just one more drink. These barrooms are fitted up with what is called an office, in which is a table and a few chairs. They are perfectly closed with high partitions, curtains, and ground-glass doors, and it is into these the victim is taken. The drinks are brought in, and that is the last the stranger knows about it. When he comes to his senses he finds that he has been robbed and perhaps beaten."

"Do they drug the liquor?"

"I don't know whether they do or not; the liquor is bad enough anyway. . . . Some parts of my own hotel are rendered practically untenable by the noise and disorder caused by drunken rowdies, and often men are brought into my house wounded by those who entrapped them into low dives."

"Did you ever make complaints?"

"Yes, frequently. But when complaints are made to the commissioners, they send you to the superintendent, he sends

you to the captain, somebody else sends you to the Board of Health, and all this amounts to nothing; it is without result. The rows and disturbances are going on all the time just the same."

UNDER THE METROPOLITAN BOARD, 1885–1893.

The year 1885 marks the turning-point in the administration of the liquor laws and general control of the traffic in Boston. The metropolitan police bill was passed in the face of a strenuous opposition, although its far-reaching consequences were hardly foreseen at the time. By this act the licensing authority was placed beyond the blighting touch of municipal politics, and those charged with the immediate execution of the laws could no longer be intimidated by threats on the part of dealers with a "pull."

It must not, however, be understood that an all-pervading improvement in the control of the trade followed close upon this change of administration. Far from it. But a definite improvement along some lines may be traced. Certain portions of the city were still chiefly distinguished for the number of saloons they contained. Merrimac Street, for instance, remained "Rum Row," and the description of conditions in other sections was still applicable. Yet a distinct discrimination, unknown for years, in the granting of licenses, was noticeable at the very beginning of the new order of things. During the first year in which licenses were issued exclusively by the commissioners appointed by the governor (1886–87), their number was reduced by about 300; and the proportion of inhabitants to each license rose correspondingly. The next two years show a further, though slight, decline of the licensed places, due in part, perhaps, to the increased fees.

Although the new board first assumed office in July of 1885, more than twice as many complaints for violation of conditions of licenses were lodged with the commissioners

as in any single year since 1879, and more licenses were declared forfeited. The earnest work of the new board is even more emphasized by the statistics for 1886. Over 100 licenses were that year declared forfeited. The principal offenses of dealers at this time were the opening of illegal doors, the sale of liquor on Sundays and to minors, and carrying on a business not allowed by the license, usually that of selling distilled liquor under a malt liquor license. These were the most obvious abuses, and easiest of complete proof. A new class of licenses was created, giving the right to sell malt liquors, cider, and light wines for a fee of $125, it having been urged that it was in the interest of temperance to encourage the use of malt liquors, and thereby decrease the consumption of distilled spirits. (Report of Board of Police.) Sixty-two such licenses were granted. There is no evidence of this measure having promoted temperance. A crusade of unwonted vigor against unlicensed dealers was also instituted, the arrests for selling without a license and the number of seizures more than doubling in the course of the year. The strong movement in favor of an impartial enforcement of the laws naturally brought out the full opposition of the dealers, who in 1886 again combined for renewed work in politics — to control nominations and secure elections. The new association made the following declaration, as reported in the public press: —

"We offer to protect the dealers in towns and cities where no license rules, as well as those in licensed places, by furnishing them the best counsel in the State and paying all lawyers' fees."

Notwithstanding their opposition, further restrictive legislation was formulated, including the amendments of the act of 1882, permitting owners of adjoining property to object to the licensing of premises, so as to allow objections of owners of real estate within 25 feet. Formerly a house

owner living opposite the proposed place of a saloon could not remonstrate against the licensing of the premises.[1] During this year (1887) both complaints against dealers and the forfeitures of licenses were numerous. Prosecutions for selling without a license, as well as seizure, were of almost daily occurrence.

With the passage of the limitation act in 1888, restricting the number of licensed places to one per 500 inhabitants in Boston and one per 1,000 in other places, a new epoch in the history of Massachusetts liquor legislation began; and the increase of the minimum fee for a first-class license to $1,000, prohibiting the exercise of licenses of the first five classes in dwellinghouses, aimed to diminish Sunday sales, which could easily be effected so long as licensed premises had interior communication with a dwelling or tenement. The definition of intoxicating liquor as any beverage containing more than one per cent. of alcohol stopped the sale of the three per cent. beer ("Berlin beer") by unlicensed venders, which had caused much drunkenness.

No less than 1,042 places licensed in 1888 were forced to close in 1889. The proportion of licensed places was one to 567 inhabitants (estimated population) as against one to 240 in 1888. The new measures had a double effect: they enabled the commissioners (1) to weed out the more objectionable licensees, (2) they made the remaining dealers, fearful of losing their costly privilege, observe the conditions of licenses with more care.

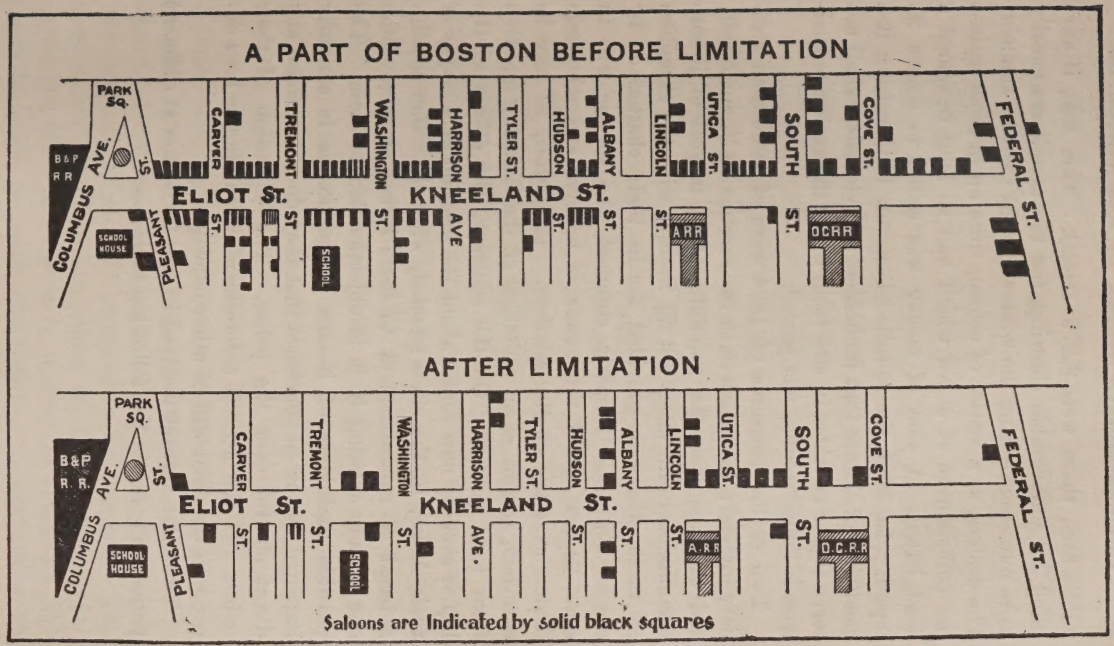
The changes wrought in one part of Boston by the limitation law with respect to the number of are licenses clearly

[1] It is a question whether the law as amended has met the expectations of its framers. While every opportunity is given owners to file objections, too many are moved by pecuniary considerations. The willingness of dealers to pay liberal "damages" to secure an eligible site is well known. For this reason few objections are made, or if made are frequently withdrawn.

shown in the diagram opposite. Yet the changes were not so marked until 1890. The complaints against dealers for violating the conditions of their licenses had, to be sure, decreased much in 1889, but they still maintained a high figure. Many licenses were also forfeited for the same old offenses, — selling on Sundays, in violation of license, and so on. "Pool for drinks" was still advertised. Much difficulty was experienced in making certain innholders conform to the requirement not to sell liquor after hours to any but *bona fide* guests. While, formerly, few complaints and a small number of forfeitures were a safe indication of lax work by the licensing board and police officers, the reverse is true after 1890, for reasons already given.

The extent to which the illicit traffic received an impetus when so many persons were forced to retire from the legalized trade cannot be estimated. The arrests for selling liquor without a license reached the highest figure thus far known in 1889. However, this may have been because the laws were more vigorously enforced.

Since the return to the license system in 1875, a provision had remained on the statute book forbidding licensees (innholders and common victualers) to keep a public bar. In 1890 the board of police, at the instance of some friends of temperance, reinforced by the Law and Order League, demanded full compliance with this provision. Accordingly the bars were partitioned off, but not removed, and drinks were now served at tables instead of at counters. The legality of this new practice was as doubtful as that of the former, since the clause forbidding the keeping of a public bar, in its original sense, clearly did not permit the sale of liquor except with meals. The change did no perceptible good. From October 1, 1889, to May 31, 1890, eight months, 16,234 arrests were made for drunkenness, and from June 1 to September 30, 1890, the four months following the revival of the law against


A PART OF BOSTON BEFORE LIMITATION
PARK SQ.
B&P R R
COLUMBUS AVE.
ST.
CARVER
TREMONT
WASHINGTON
HARRISON
TYLER ST.
HUDSON
ALBANY
LINCOLN
UTICA ST.
SOUTH
COVE ST.
FEDERAL ST.
ELIOT ST.
KNEELAND ST.
SCHOOL HOUSE
PLEASANT
SCHOOL
AVE
A R R
O C R R
AFTER LIMITATION
PARK SQ.
B&P R. R.
COLUMBUS AVE.
ST.
CARVER
TREMONT
WASHINGTON
HARRISON
TYLER ST.
HUDSON
ALBANY
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public bars, there were 8,279 arrests. This was, if anything, an unfavorable showing, for the arrests are usually more numerous during the winter months than in summer. The dealers, as a matter of course, were up in arms against the enforcement of a law which had so long remained a dead letter. A sum of money was raised to secure its repeal. In 1891 the so-called Donovan bill, making it a condition of license that innholders and victualers shall not serve liquor at tables in any room where the exclusive business is liquor-selling, was passed.

Two of the measures of 1894 were of more than ordinary interest: that relative to the sureties on liquor bonds, and that requiring the appointment by mayors of license commissioners for cities voting license, with the exception of those otherwise provided for in their charters or by special statutes. Properly enforced, the former will in some degree curtail the power of brewers and wholesale dealers over the smaller retailers. The latter, as may be surmised, cannot affect a divorce of the licensing question from local politics. On the contrary, the efforts of the liquor element now centre about the election of a mayor of their choice, in the cities affected, who will either appoint a board of commissioners to their liking or remove the one already existing if it is objectionable to them. The possible usefulness of license commissioners is seriously impaired by the circumstance that they do not exercise any direct control over the police. The execution of their orders and the general enforcement of the liquor laws depend on the good-will of other officials.

The total amount received in fees in Boston at different periods is given in the following table: —

Years.	License Fees.	Expenses of Enforcing Liquor Laws.
1876	$173,323	$29,387.91
1877	274,865	25,595.73
1878	223,388	25,107.39
1879	272,474	25,047.66
1880	242,474	"
1881	258,865	31,361.79
1882	260,838	Not known.
1883	279,813	"
1884	305,551	"
1885	543,390	"
1886	608,113	"
1887	588,480	"
1888	618,918	"
1889	888,308	"
1890	1,012,600	"
1891	1,033,872	"
1892	1,058,146	"
1893	1,064,033	"
1894	1,084,194	"

The revenue from this source is about equal to the cost of the maintenance of the Police Department. In the matter of increasing the fees, the question of revenue has doubtless been a ruling motive; it also affects the annual vote on licensing.

THE LIQUOR TRAFFIC IN BOSTON IN 1894.

Open and flagrant violations of the liquor laws by licensed dealers are no longer of frequent occurrence. This is the testimony, not only of the police, but of private organizations directly interested in the question. The licensees realize, better than before, the nature of their privileges, and know that failure to observe the conditions imposed is likely to result disastrously. Sunday sales by

saloons are practically unknown. Innholders may be found, however, who resort to peculiar methods of registering guests in order to sell liquor after hours, under a guise of legality. Those who are bolder are pretty sure of punishment when found out. Few liquor-shops would now dare to sell to minors where their minority is obvious. Sales to intoxicated persons occur commonly as a matter of course; and any one can obtain, without the slightest difficulty, enough drink to produce intoxication. On the other hand, numerous dealers persistently refuse persons visibly under the influence of liquor. The closing hours are promptly observed. Especially of the common saloons it must be said that the screen law is fully complied with. As a rule, whatever takes place in a saloon may be viewed from the sidewalk. The condition of licenses with respect to the kind of liquor sold is said to be fully met. But the sale of poor and adulterated intoxicants goes on, and little is done to prevent it. For years no report of analyses of liquor has been made public.

The other restrictive features of the law have little direct bearing on the manner in which the traffic is conducted.

On the whole, it can be said that the efficient division of the police ("liquor squad") charged with the immediate supervision of the licensed shops experience but little difficulty with them. Were the officers lax in performing their duties, a flood of complaints would surely pour in, and the unlicensed dealer become defiant. Neither has happened. Comparatively few of the illegal venders dare longer to protect themselves to the extent of paying the United States special tax on liquor-dealers. So late as in 1883 and 1884, the number of those paying this tax exceeded the number of licenses issued by the municipality by from one third to one half. In 1894 1,404 persons in Boston paid a special tax as *retailers* of spirituous or malt liquors. Assuming that all the innholders, victualers,

wholesale dealers, grocers, retail druggists, and the stewards of the 48 clubs sell liquor in less quantity than five gallons, only 1,172 of the special taxes have been accounted for, leaving an excess of 232, which must represent so many illegal dealers. The liquor-dealers of Boston must still be counted as factors in politics; but in matters appertaining to the supervision of their business and the granting of licenses, their influence is practically insignificant. In other words, they can no longer, as before, make themselves felt in local politics to the detriment of the community. Such has been the effect of the high license and limitation laws, and, above all, of the metropolitan police act. This is conceded by some of the lifelong opponents of these measures. But in state politics the dealers can and still do work to their great advantage, chiefly in the line of thwarting the enactment of new liquor laws.

Since nearly all dealers apply for a renewal of their privilege each year, the work of the police commissioners is light. The changes made in the course of a year have rarely numbered more than twenty-seven. If a licensee has complied with the conditions imposed, he may be pretty sure of permission to continue business at the old stand. At the same time it is officially stated that it has been the endeavor of the officials to centre as many of the liquor licenses as possible in the "business district of the city." It is well known that some of the purely residential wards object to the presence of saloons, and bring much pressure to bear on the licensing board to secure their wishes. But since the licenses are granted in proportion to the population, those driven out of one locality must find an abiding-place in some other. In consequence, the wards containing a population either lacking influence to oppose the opening of more liquor-shops within their limits, or displaying indifference, or even welcoming the accession of new "social centres," are sure to get them.

In other words, the majority of liquor-shops (hotels, wholesale houses, and some restaurants excepted) are found precisely where they can do most harm. Saloons outlawed in Dorchester (this ward had fifty some years ago, now four) will reappear in the poor quarters — in South Boston, perhaps, or at the North End.

That some of the wards mustering the greatest number of saloons are parts of the centre of trade in Boston, is quite true. But the ordinary saloon is not found on prominent business streets unless there be a large tenement population in the rear, or the situation is especially adapted to tempt the coming and going workmen. If we take Ward Six as an example, we find most of the saloons on North Street, in the heart of a tenement district of the worst character; no less than twenty along the lower part of Hanover Street, with thickly inhabited courts and alleys in the rear, on both sides of the thoroughfare. Again, on Atlantic Avenue, in the same ward, we find the saloons huddled together where the greatest number of sailors congregate, and directly in front of the prominent steamboat landings. In Wards Seven and Twelve, the saloons seek position as near the railway stations as possible. A multitude of instances may be given. Ward Nineteen, which ranks sixth in point of saloons (South End), and Ward Thirteen, which ranks eighth, cannot be said to belong to the business district proper; both are conspicuous for bad sanitary conditions and a shiftless class of inhabitants.

ARRESTS AND PROSECUTIONS.

Reference has been made to the great extent of the illegal traffic during the first ten years of license. At times, as has been seen, the number of unlicensed places almost equaled the licensed ones. The police were not alone to blame for the demoralized state of the traffic. It is true, they were often corrupted, or at least cajoled, by dealers

with political influence, who, if licensed, not infrequently sought shelter with the licensing authorities or, if unlicensed, relied upon the aid of their privileged brethren. But the officers were, first, embarrassed by the common difficulty of obtaining sufficient evidence to secure convictions, and, secondly, experience had taught them that oftentimes the strongest evidence would not even secure the trial in court of a liquor case.

After 1885 the illicit traffic still flourished, but now the officials could attack it without personal risk. The number of arrests increased materially. The limitation and high license laws seem at once to have stimulated the unlawful trade and placed it on a different footing. Some of the many persons who had lost their privileges would naturally resort to illegal means, but the smaller number and improved character of the saloons made both control and supervision easier. Besides, the licensed dealers manifested jealousy of any encroachment upon their privilege by persons who had little to lose, and paid less. Since 1889 the unlicensed traffic has been driven more and more into secret places. Formerly — as late as ten years ago — the police could report with some degree of accuracy the number of places where liquor was sold contrary to law; now such an estimate would be impossible. So soon as knowledge of the existence of a "kitchen bar" reaches the police, or so soon as evidence has been secured, a descent upon the place is made.

The kitchen-bar trade is now almost wholly confined to Saturday evenings and Sundays. As a rule, the stock on hand is small and intended only for immediate consumption. Large seizures are occasionally made. The liquor sold is of the poorest quality, but brings the average prices, which again means great profits offsetting the many risks involved. The kitchen bars are not confined to any particular locality. They abound chiefly in the poorer sec-

tions of the city, but may be found almost everywhere. The large number of persons coming in from the surrounding no-license towns on Saturday evenings and Sundays for the avowed purpose of obtaining drink, are, according to the police, the best customers of these bars. The keepers rarely admit customers unknown to them. Some move about from place to place. It frequently happens that the premises suspected of harboring a kitchen bar are vacated before a seizure can be made.

Notwithstanding the many obstacles encountered, the officers of the "liquor squad" express confidence in their ability to stamp out the illicit trade in the course of time, or at least confine it within very narrow limits. It is of interest to note that the police now coöperate with such an organization as the Law and Order League in the warfare against unlicensed traders.

Complaints are frequently made that druggists sell liquor in violation of their licenses. Some carry a considerable stock of beer. Detection of their illegal doings is difficult, both because apothecary shops are not under the same surveillance as other licensed places, and because the proprietors are careful about supplying none but customers known to them with drink.

Statistics of the arrests for violations of the liquor laws, classified according to sex, nativity, and residence, between the years 1880–1894, exhibit two remarkable facts. First, that a large and increasing percentage of the unlicensed venders are women. In 1885 women constituted 17.57 per cent of the total number arrested (239); in 1889, 43.56 per cent. (total arrests 808); in 1891, 49.01 per cent. (total 612); in 1893, 45.76 per cent. (total 638); and in 1894, 46.60 per cent. (total 648). Not a few of these were keepers of disreputable houses. Secondly, that more than one half of the persons arrested are classed as foreigners. Of late their number appears to diminish. It

is also noteworthy that more minors and non-residents are prosecuted for liquor offenses than formerly.

The mere arrest for a violation of the liquor laws carries of itself no terror, and may be but the beginning of a long legal process in which the defendant has an excellent chance of escaping without harm. Commonly, it is necessary to have two full trials of every liquor case. The defendant is arraigned in the lower court, and the case fully heard, so far as the government side is concerned. If convicted, the defendant is allowed to appeal; for there is no jury in this court, and he is entitled to a trial by jury. It may be inconvenient for the appellant to pay the fine imposed in the lower court; he may put his trust in a sympathetic jury; or when, after many months, the trial finally comes on, important evidence may have vanished, or the principal witnesses may no longer be at hand.

Previous to 1885, and to some extent later, the main reliance of the accused dealer was on his own political "pull," or the "pull" of his friends. The prosecuting officers of the county, being elected by the people, and hence susceptible to local political influence, were in the habit of disposing of liquor cases without trial.

The following statement of the disposition of cases of violation in the Superior Court of Suffolk County, 1881–1884, reveals plainly the strong hopes of a final dismissal of their cases which might be entertained by appellants to that *superior* court: —

PERCENTAGE OF LIQUOR CASES.

	Pending at the beginning of the year.	Begun during the year.	Brought to trial.	Nol. pros'd.	Placed on file.
1881	249	–	2.40	1.61	38.15
1882	120	194	3.50	4.14	53.50
1883	49	248	8.73	13.46	49.15
1884	42	295	–	38.87	39.16

Under such conditions it is evident that the law could have no terror for evildoers. It might be predicted with safety that considerably more than half the liquor cases appealed would be nol. pros'd or placed on file, usually on the payment of costs. If brought to trial, the chances of an acquittal were better than ever, for it was a common thing to have liquor-dealers for jurymen.

That the leniency of the district attorneys toward the liquor men was a direct bid for their votes cannot be doubted in face of the fact that in the lower court, where no political influences could be brought to bear, judgment was swift and sure. As an instance, taking in regular order the prosecutions instituted by the Law and Order League from June 2 to December 5, 1884, we find that thirty-five cases were tried before the Municipal Court, and in each one fines ranging from $50 to $100 were imposed. Two of the defendants paid, thirty-three appealed. Of these thirty-three cases, the district attorney placed eighteen on file on the payment of costs and nol. pros'd the remaining fifteen.

At last the pigeonholing of liquor cases by the district attorney had become such an abuse that the General Court in 1885 saw fit to pass the act providing that no case for the violation of liquor laws shall be placed on file or disposed of except by trial and judgment according to the regular course of procedure in criminal cases. That this act produced good results is evident from the next two tables, which show the disposition of liquor cases tried before the municipal and superior courts of Suffolk County [1] from 1885 to 1892.

[1] The returns of the Superior Court include liquor cases from the city of Chelsea (population 27,909) and the towns of Winthrop and Revere (population 11,394), all in Suffolk County. For this reason the cases coming from those places are given in the returns of the municipal courts. Of the latter, those for South Boston in 1885 and 1886 are incomplete.

DISPOSITION OF LIQUOR CASES IN THE MUNICIPAL COURTS OF SUFFOLK COUNTY, 1885 TO 1892.

Years.	Pending at the beginning of the year.	Begun during the year.	Percentages.				
			Brought to trial.	Nol. pros'd.	Placed on file.	Sentenced.	Appealed.
1885	49	362	74.20	1.06	.26	57.00	54.11
1886	42	621	75.41	1.76	6.57	54.96	37.01
1887	40	509	76.50	2.20	–	56.20	33.20
1888	37	652	74.89	.93	2.96	52.88	35.72
1889	49	1,012	90.38	3.00	2.30	53.85	28.92
1890	102	721	88.69	1.10	2.49	66.89	31.30
1891	101	816	85.49	3.11	3.61	62.88	37.64
1892	104	753	84.83	.26	.53	64.04	30.06

DISPOSITION OF LIQUOR CASES IN THE SUPREME COURT, 1885 TO 1893, BEGUN BEFORE THE GRAND JURY OF SUFFOLK COUNTY AND COMING TO THE SUPERIOR COURT, 1885 TO 1893.

Years.	Pending at the beginning of the year.	Begun during the year.	Percentages.			
			Placed on file before trial.	Nol. pros'd.	Sentences imposed.	Placed on file after trial.
1885	15	216	13.85	20.34	20.34	–
1886	73	319	2.29	–	55.10	–
1887	27	205	14.22	–	42.67	–
1888	30	233	17.11	2.66	41.82	–
1889	41	363	43.31	1.23	42.57	–
1890	39	260	9.69	.33	49.16	–
1891	25	230	6.60	1.32	35.68	66.66
1892	41	279	2.43	.34	45.29	11.25
1893	61	201	3.00	.41	48.76	12.21

The work done on liquor cases in the different municipal courts of the city is very unequal. Some of these courts are distinguished for the many cases left untried at the end of the year, others for the number of cases nol. pros'd. The percentages given indicate a smaller number of appeals than formerly; still, more than one half of the defendants are not content to abide by the decision of the lower courts. During the last three years there has been a notable increase in percentage of sentences imposed.

The percentage of those made to suffer the heavier penalty of imprisonment in addition to fine, provided in 1889, is very small, nor is it a frequent occurrence that the maximum fine is imposed. A reason for this may be that the greater the penalty, the more likelihood that a second trial of the case will be necessary. By a comparison of the above percentages with those on page 209, the effect of the law of 1885 prohibiting the placing on file of liquor cases except on motion made in open court, is clearly seen. Since 1889 few cases have been placed on file before trial, but many were disposed of in this manner afterward, for which the work of probation officers is in a measure responsible. It will be observed, however, that in 1889 44.54 per cent. of the liquor cases were placed on file or nol. pros'd. The act has thus not entirely destroyed the tendency to favor accused liquor-dealers. So long as the office of district attorney remains elective, the temptation is likely to linger.

But however faithfully the liquor cases are handled before the Superior Court, the defendants may still not be without strong hope. On an average, sentences are imposed in less than 50 per cent. of the cases heard by that tribunal, and a still smaller percentage of the trials results in verdicts of guilty. The reason for this may often be that the evidence is insufficient, but it is a common observation that juries are disposed to treat alleged offenders

against the liquor laws with peculiar leniency. The full statutory penalty is rarely if ever imposed. A fine ranging from $50 to $100, with costs added, is the usual punishment. In less than 15 per cent. of the cases a sentence of imprisonment is imposed and usually only when the convicted person is an old offender, or when other complaints have been entered against him. In the opinion of men conversant with the matter, convictions would be less frequent than now, were imprisonment made the penalty in all cases.

ARRESTS FOR DRUNKENNESS.

In the absence of trustworthy statistics of consumption, the question whether, under the many measures introduced, and the increasing stringency of the laws governing the liquor traffic, there has been a corresponding improvement in public sobriety in Boston, is an exceedingly perplexing one. Numerous factors must be reckoned with, the precise influence of which is not easily gauged. The laws under which arrests are made have been so amended at different periods, and even radically changed, as to affect directly the number of arrests. While the regulations issued to the police, relative to the manner of making arrests, have been tolerably constant, they have been differently interpreted under different administrations. The methods of recording arrests have varied, and the statistics have not been compiled on a uniform plan. Public sentiment as regards the toleration of public drunkenness has not always been the same — at times lethargic, at others aroused and making greater demands. Lastly, the immense suburban population of Boston living under no-license in their homes has added quota to the Boston lists of arrests difficult at all times to estimate, yet singularly and even visibly affecting the state of sobriety in this city.

For the six years previous to 1870, the records of the

police stations were kept in such a manner as to make it appear that persons arrested for drunkenness and discharged when sober, without being taken before a magistrate, were lodgers, and the letter "D" was attached to their names to distinguish them from those who applied for lodgings. For example, in 1869 the arrests for drunkenness are put down as 9,954, and the lodgers marked "D" are given as 9,492, which indicates that the number of arrests for drunkenness in that year was 19,446. At the beginning of 1870 instructions were issued to record all persons sent to court for drunkenness as "drunk," and all who were more or less under the influence of liquor when taken into custody, and discharged when sober, as "disorderly." The only object of these methods was to conceal the actual number of arrests for drunkenness. The police had no more authority in law to discharge on their own responsibility a person arrested for being disorderly than they had to discharge one arrested for intoxication. Yet these methods prevailed until 1879, when an order was issued instructing officers to enter on the records of all cases the actual cause of arrest — instructions which have since prevailed without any significant modification. But it always must remain a matter of greater or less choice with the officer making the arrest, what kind of complaint is entered. Some discrepancies in the statistics of drunkenness appear in the official publications, which have arisen, no doubt, in part from the confusion of the terms "drunk" and "disorderly." Not until 1886 and 1887 were persons charged with drunkenness properly classified.

At the close of the period of prohibition, things were running so loosely, perhaps owing to the anticipation of a change, that even a mildly enforced license law could hardly help resulting in some improvement. During the first year of license the arrests per 1,000 inhabitants decreased 5.43 (a total, as recorded, of 18,645 in 1875

against 18,090 in 1874). From that time on until 1880, the statistics indicate a growing sobriety in the city. The arrests for drunkenness fell off year by year in proportion to the population. But in the light of the exposition above made of the method of recording arrests, there seems little ground for giving the figures implicit credence. Moreover, the licensing boards displayed anxiety to prove the value of a license system by the statistics of drunkenness. It was, however, undeniable that all indications pointed to an improvement over 1874.

In 1880 the arrests for drunkenness per 1,000 inhabitants rose suddenly from 38.68 to 44.67 (total in 1880, 17,329, in 1879, 14,691), while the number of arrests for all offenses had not increased in anything like the same proportions; and they continued to multiply in 1881, reaching 19,360, or 49.57 per 1,000 inhabitants. The causes ascribed were (1) the reduction of the fine to one dollar on a first conviction, "which rendered men more reckless than before;" (2) the prosperous condition of the laboring classes; and (3) the "stricter mode of arrests near the railroad stations."

Some of the largest suburban places, — Quincy, Newton, Malden, Somerville, — and smaller towns as well, had at the earliest opportunity taken advantage of the local option law, passed in 1881. As in later years, in this the outlawing of the saloon in the suburbs at once swelled the lists of arrests for drunkenness in Boston. Yet under the same lenient drunk law the arrests in 1882 to 1884 fell off as compared with those for 1881 (18,811 in 1882, 18,635 in 1883, 18,842 in 1884), while the number of arrests for all offenses took an upward turn. From evidence elsewhere given, it is plain that the liquor element during this period was running things with a high hand. Chiefly on account of the poor work of the police, the rate of arrests remained relatively low.

In 1885, when the former penalty of a maximum fine of $5 for the first offense was restored, and, of far greater moment, the Metropolitan Board of Police was created, the arrests numbered 16,399, or 38.94 per 1,000 inhabitants. The results of the special efforts to stop the Sunday trade were visible in the thinning out of the municipal docks on Monday mornings. In 1886 the Sunday arrests decreased over 17 per cent. as compared with the preceding year. The arrests per 1,000 inhabitants reached the lowest figure yet known — 38.17, or 9.81 less than in 1875. In 1887 the pendulum swung to the other side: the arrests for drunkenness increasing from 38.17 per 1,000 inhabitants to 44.46, and constituting a greater percentage of the total number of offenses for which arrests were made. The city of Cambridge (population 70,000) had voted no-license, which helped to fill the Boston saloons, and augment the apprehensions for insobriety. Of the total arrests for drunkenness this year (19,213), 40 per cent. were non-residents. Other places near Boston adopted the no-license policy in 1888. The percentage of non-residents arrested increased a little, while the whole number of arrests for drunkenness (23,121) advanced 8.38 per 1,000 inhabitants; so far as can be ascertained, this was out of proportion to the known outside influences.

The first year of high license and statutory limitation disappointed the advocates of these measures, so far as arrests for drunkenness were concerned. That year they took a further upward course (total, 25,098), equaling 3.81 per 1,000 inhabitants in excess of the preceding year. Furthermore, fewer outsiders were apprehended. Dissatisfaction with the changes and a disposition to evade them are said to have caused more drunkenness. With a greatly reduced number of saloons, and these under better control, other results were naturally looked for. In 1890 the number of arrests declined 3.08 per 1,000 inhabitants, while

fewer arrests of non-residents were made. The vigilance of the police had not relaxed.

On the 1st of July, 1891, a new law[1] on intoxication went into effect, a measure of so radical a nature that the work of the police for the years 1892–1894 in making arrests for drunkenness cannot in fairness be compared with that of former years. Although the new law was operative for only five months of 1891, the arrests increased 6.85 per 1,000 inhabitants, with no corresponding increase in the percentage of non-residents. During this short time, 10,442 persons were released by the police. In the next year, the arrests reached the remarkable figure of 73.45 per 1,000 inhabitants, or 23 per cent. more than in 1891. A slight increase of non-residents was also noticeable. In the belief that the law tended directly to encourage men to recklessness in their dissipation, it was amended in 1893 so that persons arrested for drunkenness can no longer be released except by order of the courts after the investigation of their cases by probation officers. A fine of $15 may be imposed and, in default of payment, imprisonment for thirty days. Perhaps chiefly in consequence of these changes, the arrests for 1893 show a diminution of 7.14 per 1,000 inhabitants. A further decline for 1894, which is common to the whole State, appears largely due to the "hard times;" yet the fact that wholesale discharges without any penalty have ceased may have contributed to it.

The question as to what extent the many changes of law and administration have produced greater visible sobriety, may receive an approximate answer by reducing the statistics of arrests for drunkenness to averages for five-year periods, as below: —

[1] This law gave police officers power to release without order of court a person arrested for drunkenness, and no offense was punishable by fine.

AVERAGES OF ARRESTS FOR DRUNKENNESS.

Periods.	Average population (estimated).	Average No. of arrests.	Average No. of arrests per 1,000 inhabitants.
1875–79	363,302.2	15,079.2	41.56
1880–84	401,199.6	18,595.4	46.45
1885–89	432,056.2	20,023.2	46.21
1890–94	459,423	28,224.4	61.41

The first five-year period includes the years under the board of license commissioners; the second those under the municipal board of police; in the third is contained one year of high license and statutory limitation, and in the last, one year under the old drunk law.

The averages obtained should, from the manner of dividing the periods, present the matter in as favorable a light as possible; still they form no basis for the conclusion that there is less public intoxication in Boston than formerly, while there is reason to believe that intemperance was more rampant from 1880 to 1884 than indicated by the average. The improvement in the next period is offset by conditions since 1890. The high average for the last five years cannot be ascribed simply to late changes in the drunk law, nor is there any tangible evidence to prove that high license and statutory limitation have helped materially to reduce the number of arrests for drunkenness. Such would perhaps be the effect of the present laws, provided the kitchen-bar trade could be wholly exterminated. The latter continues to be a fruitful source of drunkenness. A significant fact not to be overlooked is disclosed by statistics for 1887–1894, namely, that more than 50 per cent. of the persons arrested for drunkenness in Boston are of foreign birth. Were it possible to group the latter and the non-residents together, it would probably be found that not over 25 per cent., probably less, of those annually filling the police stations of Boston are native residents of the

city. It further appears that the number of females arrested for intoxication does not decline perceptibly, but only fluctuates in proportion to the total number.

DISPOSITION BY THE COURTS OF CASES FOR INTOXICATION.

Until the latter half of 1891 persons arrested for drunkenness were, or should have been, sent to court for trial. Unless the culprit happened to be an accidental offender, or there were extenuating circumstances in the case, a small fine was imposed, usually five dollars. Common drunkards were generally sent to jail. In an aggravated case, or where other complaints could be alleged in connection with drunkenness, both penalties would perhaps be imposed. Only a small percentage could hope to escape punishment altogether until the act of 1891 was passed.

A few cases are annually appealed to the Superior Court. The reason for such action is not so much the expectation of final discharge as the wish to stave off the time for sentence, in the hope of getting money to meet the fine, and thus escape commitment. Of the number committed to the various penal institutions, the largest by far are sent to the Boston House of Industry, and includes persons unable to pay fines and costs, as well as confirmed drunkards. Sentenced to the House of Correction are those who, it appears in the evidence, have been guilty of other offenses than drunkenness. To the jail are sent those who have appealed their cases and await trial. Statistics of persons sentenced to pay a fine, and who actually pay, are not at hand. It is a conservative estimate to say that more than 50 per cent. pay.

The police returns contain no special record of the number of times the same individual may be arrested for drunkenness in the course of one year. How frequently old offenders are brought before the courts may be gathered

from the recommitments to the House of Industry. Previous to 1892, from 61 to 65 per cent. of the males committed during one year had before been inmates of the institution. Many had served more than fifty sentences. Not a few spent half their time "on the Island." One man is known to have served eleven out of twelve months on eleven convictions. Of the females a still larger percentage was recommitted, which seems to indicate that women addicted to drink are less corrigible offenders than men.

One of the complaints against the former drunk law was that many persons who were not confirmed drunkards, and who found themselves unable to pay the fines and costs, were sent to an institution wholly lacking in reformatory influences. Merely the stigma attached to a person for having "done time at the Island" must, it is said, hasten on a downward course. The new law does not appear to have brought about a signal improvement in this respect. While the total number annually committed to the House of Industry has been reduced, a relatively greater proportion are sent there for the first time. A curious fact is that the greatest number of recommitments is of persons who have been sentenced more than five times. It is said to be official experience, which apparently is borne out by statistics, that after a fifth commitment a man may be given up as lost.

II. THE TRAFFIC IN NORTH ADAMS.

The town[1] of North Adams affords a fair illustration of the working of the liquor laws in the smaller communities of Massachusetts. With the exception of one year, it has consistently voted to license the sale of liquor. North Adams is remote from large centres of population, without having extensive rural districts tributary to it. But the

[1] North Adams has since become a city.

drink problem here is made the more difficult by the proximity of towns (notably Williamstown) and villages which as a rule do not tolerate saloons, yet furnish a considerable portion of the consumers of liquor charged to North Adams. The population is largely made up of factory operatives, nearly all of foreign birth or extraction. Still the American-born element is preponderating. Some of the principal occupations of the inhabitants, as given by the United States Census of 1890, are appended: —

Bookkeepers and clerks	155
Merchants and dealers	187
Steam and railway officials and employees	280
Boot and shoe makers	403
Cotton operatives	370
Bleachery operatives	201
Printwork operatives	584
Woolen mill operatives	288
Carpenters	168
Cigar-makers	161
Bartenders	21

In general North Adams does not present any characteristics, in marked contrast to those of other communities in western Massachusetts, of special importance to a consideration of the liquor traffic.

Ten years ago licenses were granted with much freedom. The fees were low, and the licensees were not held to strict account. They were numerous and wealthy enough to wield a strong influence in politics, making themselves especially felt in the election of state representatives. In return for their services to others, they enjoyed a non-interference with their business of sad consequences to the community. The police did little to restrain the sale within legal limits. Minors and children were permitted to frequent barrooms, and illegal selling flourished. In 1888, the year before the high license and limitation laws went into effect, 34 licenses, including druggists' licenses,

were issued, or, exclusive of the latter, one to about 550 inhabitants. They were distributed as below: —

Of the first class,	26,	fee $800
Of the fifth class (brewers),	1,	fee 200
Of the fifth class (bottlers),	2,	fee 150
Of the sixth class (druggists),	5,	fee 1

Ever since, the number of licenses has been regulated by law — one to 1,000 inhabitants. At present sixteen, exclusive of druggists', are issued annually by the Board of Selectmen.

LIQUOR LICENSES AND FEES IN 1893-94.

First, fourth, and fifth classes combined,	4,	$2,300 each.
First and fourth classes combined,	12,	1,800 each.
Sixth class (druggists),	9,	1 each.

The sudden reduction of licenses presented an opportunity for getting rid of some of the most objectionable dealers. But already, about a year earlier, a strong movement was under way, led by the chairman of the Board of Selectmen, to place the liquor traffic under better control. To-day all the saloons, with one exception, are situated in about two blocks on the same street, facing the police station, in the heart of the town. This is, of course, an intentional arrangement, with a view to easy supervision at all times, as well as in order to remove the sale of drink as far as possible from the homes. Perhaps in no mean measure, as a result of this arrangement, the saloons are unusually orderly. If disturbances arise, they are quickly quelled. The general provisions of the law, such as those against maintaining screens and selling after hours, are well observed. Sunday sales by licensed dealers even in hotels are practically unknown. The revocation of licenses for this cause has had a wholesome effect.

A system of posting intemperate persons in saloons is in vogue, and admirable results are claimed for it. The notice served reads as follows : —

"This is to notify you that my —— has the habit of drinking spirituous or intoxicating liquors to excess, and you are hereby requested not to sell or deliver to him any liquors, nor permit him to loiter about the premises occupied by you, known as ——, in said North Adams."

On the reverse is a copy of the statutes on which the notice is based and explanations of the liability of dealers who fail to heed it. The notice ends thus: —

"If good citizens, who have the welfare of their fellow-men at heart, will only aid in this effort to help those who are suffering from the liquor traffic, the management of town affairs will soon be taken from the rum fraternity, who rather destroy than advance its best interests."

The work of posting drunkards is done chiefly through the medium of the chief of police.

THE ILLICIT TRAFFIC AND PROSECUTIONS.

In spite of the vigilance of an efficient chief of police, liquor is illegally sold at eight or ten places. This would correspond to the number of United States special taxes paid for by residents of North Adams who are not licensed. It is a fact well known to the authorities, who are often "compelled to let good cases go by for lack of sufficient evidence." The lawbreakers are emboldened by the knowledge that, should they ever fall under the law, the chance of a final discharge is excellent. In the Municipal Court they are almost sure of being convicted, but they generally appeal. The mere fact that the Superior Court of Berkshire County is about two years behind on liquor cases would of itself lend substantial cheer to the indicted dealer. At the expiration of such a length of time, the once strong evidence may have been dissipated. But politics also enter into the question. The office of district attorney is elective, and that official knows it to be distinctly advantageous to him at the polls to deal leniently

with the liquor element. Not long ago political pressure was brought to bear upon a district attorney in an unusual way by citizens of North Adams. The town is nominally Republican by 800 votes; but the Democratic district attorney of the county was assured of reëlection by means of these votes, on the promise that he would pay more attention to liquor cases coming from North Adams. He was reëlected and fulfilled his pledge. By dint of hard work and pressure it has been possible to secure convictions involving even imprisonment as a penalty. Occasionally defendants in the lower court are induced to pay a fine on the promise of escaping imprisonment. It is estimated that more than half of the liquor cases go up to the higher court on appeals.

In connection with the foregoing, it is of interest to note that in Berkshire County United States internal revenue collectors have refused to testify in liquor cases and to give information about persons having paid a United States special liquor tax. It is asserted that politics have determined this action.

The statistics of arrests for violations from 1883–84 to 1893–94 show a smaller number during the first three years of this period than in any single year following, not because the illicit traffic was unknown, but owing to the inactivity of the police. In the one year of no-license (1886–87) the apprehensions for illegal sales reached the highest figure in the history of the town (85). The public had now become aroused to the necessity of a more energetic policy, the police department was completely reorganized, and a chief selected, with a special view to the suppression of the illicit trade.

Unlawful sales were still common in 1887–88, and the rate of arrests showed but slight diminution (82). The heaviest penalty imposed in that year for illegal selling was a fine of $350 and imprisonment for eight months.

In 1888–89 the number of persons arrested was 57, of whom thirteen were sentenced to imprisonment, and fines were collected to the amount of $2,600. In 1890–91, twenty-four persons were arrested, of whom five were sent to jail, twelve paid fines, two defaulted, and five were discharged. The year following convictions were secured in every case (eighteen in all) prosecuted.[1] Since 1887–88, the number of kitchen bars has diminished notably, owing to the persistent work of the police in making arrests and following up the cases in court.

ARRESTS FOR DRUNKENNESS.

How considerately the police treated drunken persons during the period 1883–84 to 1886–87, the year of no-license, is plain from the sudden rise in the number of apprehensions in 1887–88 (from 242 in 1883–84, 306 in 1884–85, 213, 1885–86, 198, 1886–87, to 446 in 1887–88). To be sure, new brooms were at work in the police department; yet in commenting upon the work of the year, the chief of police could say, "The figures for drunkenness barely represent that portion who have come under the eye of the police so drunk and disturbing the peace that it was best they should be arrested." The succeeding three years show a slight decline in the rate of arrests per 1,000 inhabitants. Then came the new drunk law, which here, as elsewhere, caused a greater frequency of arrests (total number in 1891–92, 571; 1892–93, 572; 1893–94, 616), and is a confusing factor in any attempt at forming conclusions from statistics of drunkenness.

Public opinion inclines to the belief that drunkenness has diminished to some degree since the high license law went into effect, but trustworthy evidence is lacking. It is probably safe to say that the late legislation has not

[1] Reference here and above is to the outcome of liquor cases in the Municipal Court.

affected the state of sobriety in North Adams to any appreciable extent. The new drunk law is not looked upon with favor. Under it 313 persons were released by the police without trial between July 1, 1891, and February 1, 1892. In 1892–93, 379 were so released and 193 taken to court; in 1893–94 the figures stood 165 and 451 respectively. Persons who, it is said, ought to be fined or confined for drunkenness are discharged by probation officers. Here again politics enter into the question. Of the number annually arrested for drunkenness, it is estimated that over 60 per cent. are non-residents. The number of persons arrested more than once for drunkenness was, in 1892–93, 11.51 per cent. of the total number of arrests, and in 1893–94, 13.34 per cent.

That the sale of liquor is as well regulated in all the other large cities and towns of Massachusetts as in Boston and North Adams, is much to be doubted. In most of the license cities the bane of the influence of the liquor element in local politics is strongly felt; as a result, enforcement is lax, and defiance of express provisions of the law common.

III. LOCAL OPTION.

GROWTH OF A NO-LICENSE POLICY.

Comparatively few of the towns voted at the March meetings in 1881 on the question of granting licenses, since the local option law did not take effect until March 3 of that year; the cities voted in December. Just to what extent the liquor traffic had been sanctioned in preceding years is not known. Many towns, and some cities, had, however, long taken advantage of the express provision of the law, that it shall not be compulsory for selectmen or mayors and aldermen to grant licenses. A no-license policy was in vogue in many places long before the local option

principle was embodied in the law. While it seems a reasonable assumption that the traffic was not materially checked during the first year of local option, it would be improper, in the absence of complete records, to contrast earlier conditions with those prevailing in 1881. Yet it should be noted that more United States special liquor taxes were paid in 1881 than in the preceding year. It should also be remarked that not a few places which were without saloons in 1881 have since almost continuously voted for license.

The greatest victories of the no-license advocates were won in 1885, 1886, 1888, and 1891. For the purpose of estimating the growth of the no-license policy, a comparison between the years 1881 and 1894 seems fair; the number of communities voting for license in the latter was below the average. In 1881, 63.28 per cent. of the inhabitants of the State lived in cities and towns granting licenses or voting "yes;" in 1894, 57.43 per cent. of the population (census of 1890) were found in cities and towns voting "yes." The gain of no-license in thirteen years is thus represented by 5.85 per cent. of the population. The next census will, however, probably show that there has been no gain, since the increase in population in the last four years has been largely in the populous centres, which are nearly always under license. Furthermore, it should be remembered that the greater number of persons now living under a no-license régime is solely attributable to the action of cities and towns within a radius of twelve miles or less from the centre of Boston; in other words, of places where a no-license vote removes the drinker a short and not seriously inconvenient distance from the base of supplies. Then, deducting from the total population that of the no-license places, — Cambridge, Everett, Malden, Melrose, Stoneham, Somerville, Wakefield, Watertown, Newton, Brookline, Hyde Park, Quincy, Chelsea, and Revere, giv-

ing a total of 269,283 inhabitants (census of 1890), — it is found that 65.39 per cent. of the whole population of the Commonwealth lived in cities and towns voting "yes" in 1894. This estimate is conservative, since it by no means includes all places influenced in the matter of voting against the saloon by the proximity of Boston.

Setting aside the question of the effect of the local option act in 1881, it appears that much ground was lost during the ensuing four years. Towns and cities which had formerly prohibited the sale of liquor without a vote on the question again returned to license. Since 1885 the temperance side has made some permanent gains. Still, if one excludes the populous centres belonging naturally to the "Greater Boston," as well as those — for instance, Beverly, Marblehead, and Peabody — in the immediate neighborhood of habitual license cities, very few among the larger towns remain, and but one city, which can be said to have banished the saloons for good under the local option law.

The vote on the license question usually falls below that of the vote for mayors and selectmen. Where the sentiment is overwhelming against license, it is frequently found that only enough votes have been brought out on that side to overcome the known license votes. In places generally favoring the sale of liquor, the full strength of the pro-license vote is rarely seen, unless special efforts are made to shut out the saloon. That the growth of the no-license vote must not be considered as equivalent to a growth of a full-fledged prohibitory sentiment is apparent from the fact that the former is most pronounced in suburban Boston and in towns holding the same relation to license cities as does Cambridge to Boston.

EFFECTS OF NO-LICENSE.

The vote on the license question exhibits one characteristic common to all communities where the policy in regard to the liquor traffic changes from year to year, or at irregular intervals: this is that the majority carrying a city or town against license is nearly always small, and is followed by a large adverse majority at the succeeding election.

The benefits of no-license in the smaller towns containing an overwhelming temperance vote are obvious; but not quite so in more important centres, although they may never legalize the liquor traffic. The sale of liquor may be reduced to a minimum, but importation cannot be stopped, nor the formation of drinking-clubs. In the case of cities, the benefit of an occasional triumph of the no-vote is open to grave doubt. Some responsibility for this rests with the law itself. A city may vote no-license in December, but the "dry" period cannot begin until the following May. The dealers who have lost their privileges will, of course, continue to sell so long as they are not seriously interfered with. Effective enforcement of the law cannot be had at once, sometimes not at all, for it may be that the police favor the saloon element. In December again the city returns a large majority for license. The vigilance of the officers of the law slackens or ceases completely; public sentiment no longer demands it, so they reason. The result is that for a few months only — six at most — during the no-license year have the saloon doors been closed tightly. Remarkable fluctuations of the vote on the license question observed in some communities admit of but one explanation: no-license is sometimes obtained as the consequence of a manufactured public sentiment, as unfruitful of good results as it is fleeting.

The value of an annual vote on the license question is supposed to lie in the fact that it keeps alive the agitation for temperance. On the other hand, no measure seems

better calculated to force the liquor element into political activity. The victory of the latter is certainly not a victory for public morality and a purer administration of municipal affairs.

Considering the State as a whole, the number of licenses has not been reduced under the local option law. A marked falling off in 1889 was wholly due to the limitation law which then took effect. From 1881 to 1888, inclusive, the licenses increased. The disproportionate growth of druggists' licenses can hardly be taken to represent simply the legitimate demand for intoxicants for medicinal purposes in no-license towns.

The statistics of arrests do not support the common assumption that Massachusetts has become more sober since the adoption of the local option law. An increase of arrests independently of changes in the drunk law is quite observable. Moreover, the towns, where no-license is supposed to have worked the greater salvation, are responsible for this increase equally with the cities. It is inconceivable that a general and steady growth of sobriety throughout the State should not be indicated in the police returns. This is said with a full understanding of how conservatively statistics of arrests should be interpreted.

The large foreign element added to the population since 1882 has, of course, not helped to make no-license a success, but it must be remembered that only a small minority of immigrants find their way to the towns. Public intoxication does not appear to decrease materially in consequence of an occasional year of no-license.

NOTE. In 1896 new and stringent regulations governing the sale of liquor by druggists were adopted. In 1897 the so-called "express" law was passed. It requires packages containing intoxicating liquors that are carried into no-license places to be plainly marked with the names of seller and purchaser and with a statement of the amount and kind of liquor they contain. Common carriers must keep a record of the receipt and delivery of liquor to residents of no-license places, the record at all times to be open to the inspection of mayors and aldermen, boards of license commissioners, selectmen, constables, police officers, justices of the peace, etc.

THE LIQUOR LAWS OF PENNSYLVANIA.

Previous to the high license law of 1887 (the "Brooks law"), systematic and uniform regulation of the sale of liquor in Pennsylvania had not been effected. New contingencies, as well as demands for more stringent measures, were met from time to time by special local acts. But all these local laws have been stricken from the books except those pertaining to prohibition and local option in certain communities.

One of the features of the Pennsylvania law peculiar to this Commonwealth has been preserved from the earliest times: that of vesting the authority to grant licenses in the judiciary. Under the Duke of York's laws, promulgated in 1676, and the laws of the proprietary government of William Penn, the licenses to sell liquor were issued by the governor to those who were recommended "in order thereto by the justices in open court." This practice continued until the law of 1815 conferred directly upon the Mayor's Court of Philadelphia, and upon the Courts of Quarter Sessions of the several counties, the power to grant tavern licenses. The act of 1834 renewed the authority of the Courts of Quarter Sessions to issue licenses on petition, provided for the hearing of remonstrances, and left the courts discretion to act in the matter "according to the necessity of the case." By special acts of the legislature, other licensing bodies were provided for the cities of Philadelphia and Pittsburgh, which will be referred to later.

Until 1856 the liquor laws were fragmentary. The legislature of the previous year was of strong temperance

proclivities. It passed what has become known as the "Jug Law," under which no dealer could sell liquor in quantities less than one quart, and denied licenses to taverns and restaurants. The law succeeding it revived several former acts, and remained in force, variously amended at nearly every sitting of the legislature, until 1887. The high license measure then enacted embodies no new principle not inherent in previous legislation. It was simply built up of earlier acts into a more harmonious whole, and with some modifications in detail. The license fees were raised, penalties for illegal selling increased, the restrictive features made more stringent, and all its provisions made equally applicable to all parts of the Commonwealth, except that the special local option or prohibitory acts were not repealed.

A summary of the law of 1887 follows: —

Licenses to be granted only by the Court of Quarter Sessions of the proper county for one year at the time.

Applicants for licenses to file their petitions with the clerk of the Court of Quarter Sessions at least three weeks previous to the session of the court. A list of the names of the applicants, their residences, and the places for which application is made, to be published three times in two newspapers.

The petition to state among other things: the name of owner of premises; that the place to be licensed is necessary for the accommodation of the public; that none of the applicants is in any manner pecuniarily interested in the profits from the sale of liquor conducted at any other place in the county; that the applicant is the only person pecuniarily interested in the business, and that no other person shall have any money interest therein during the continuance of the license; whether the applicant held a license during any part of the year and if the license was revoked; and it must contain the names of at least two reputable freeholders of the ward, borough, or township where the liquor is to be sold, who will be the applicants' sureties in the penal sum of $2,000. The bondsmen must not be engaged in the manufacture of liquors (an amendment of 1891 provides that, when any person is surety on more than

one bond, he shall certify that he is worth $4,000 over and above all incumbrances, and over and above any previous bonds he may be surety on); the petition to be verified by affidavit of applicant; a certificate to accompany the petition, signed by at least twelve reputable qualified electors of the ward or township, and stating that they know the applicant, believe all his statements to be true, and therefore ask that the license prayed for issue.

The Court of Quarter Sessions to hear petitions from residents of the ward, borough, or township, in addition to that of the applicant, in favor of or remonstrance against the application; and to refuse the license whenever, in its opinion, it is not necessary for the accommodation of the public and entertainment of the traveler, or the applicant is unfit. Upon proper notice that the licensee has violated any of the liquor laws, the court to revoke the license.

The license not to be issued until the applicant has executed a bond to the Commonwealth, and a warrant of attorney to confess judgment in the penal sum of $2,000, conditioned for the faithful observance of all the laws relating to the sale of liquor, and to pay all damages which may be recovered in any action against him, as well as all fines, costs, and penalties imposed on conviction for violation of any of the liquor laws.

License fees: licensees resident in cities of the first, second, and third class to pay $500; in other cities, $300; in boroughs, $150; and in townships, $75.

In cities of the first class, four fifths of the fees to go to the city and county, and one fifth to the Commonwealth; in cities of the second and third class, two fifths to go to the city, two fifths to the proper county, and one fifth to the Commonwealth; in other cities and boroughs, three fifths to the city or borough, one fifth to the county, and one fifth to the State; in townships, one half to the township, one fourth to the county, and one fourth to the State, the share falling to the townships to be applied to keeping the highways in repair.

The mercantile appraisers to furnish a sworn statement to the clerk of the Court of Quarter Sessions, in January of each year, of all licensed and unlicensed places where liquor of any kind is sold. A list, containing the name of each licensee and the amount of fee paid, to be published, as well as a list of all unlicensed places. The district attorney also to be supplied with a list of persons selling liquor without a license, and forth-

with to prosecute the offenders according to law. The identical duty with regard to making returns, under oath, of all places where liquor is sold, except at drug-stores, enjoined upon the constables of wards, boroughs, or townships in each county. Judges of the Court of Quarter Sessions to see that such returns are faithfully made in the first week of each term of court. A constable found willfully neglecting to make full returns to be suspended by the court from office, and the district attorney directed to indict and try him; the penalty a fine not exceeding $500 and imprisonment for not more than two years, both or either, at the discretion of the courts.

Among the minor provisions are these: that licenses be framed under glass, and conspicuously hung on the premises; vending liquor in a room where groceries are sold, either at wholesale or retail, is forbidden; no licensee selling liquor by less measure than one quart to trust or give credit therefor under penalty of forfeiture of such debt.

Penalties ranging from $500 to $5,000 and twelve months' imprisonment were imposed for selling without license, and from $100 to $5,000 and from three to twelve months' imprisonment for violating the law governing licensed places; and the license could be revoked if a disorderly place were kept.

Druggists are not required to take out licenses, but they are allowed to sell intoxicating liquor only upon the written prescription of a regular physician. Alcohol, however, or any preparation containing the same, may be sold for scientific, mechanical, or medicinal purposes. But liquor must not be furnished more than once on any one prescription of a physician.

By an act of 1891 persons licensed to sell liquor at retail, resident in cities of the first and second class, must pay $1,000; in cities of the third class, $500; in all other cities, $300; in boroughs, $150; in townships, $75.

THE CITY OF PHILADELPHIA.

Philadelphia is singularly fortunate in its territorial conditions. Its population is scattered over an area of 129½ square miles — nearly twice the area of Brooklyn, which contains nearly as many inhabitants. The city lines stretch for twenty-two miles along the Delaware, and run from

five to ten miles inland. Of the nearly one million and a quarter inhabitants, only about one third are found within the confines of the old city, or within a radius of about two miles from its heart. The others have been drawn farther and farther out, to what were formerly county villages, which even to-day are like distinct communities, acres of unoccupied land separating them from the city proper. Abundant room, facilities of transportation, and financial enterprises to meet the needs of the masses have helped to make Philadelphia a "city of homes." The tenement and the apartment house are almost unknown. The city's 1,046,964 inhabitants are housed in 187,052 dwellings (census of 1890), an average of 5.60 persons to each as against 18.52 in New York, 8.60 in Chicago, and 8.52 in Boston. Not in a single ward is the average higher than 7.48, while in New York it reaches 38.50, in Chicago 14.52, and in Boston 13.79.

In no other one of our great cities is the workman so well and comfortably housed. But the city has its quota of the vicious and shiftless, who persist in huddling together in what are termed the "slums;" yet the quarters so designated are not so isolated, or of such an extent, that they present serious obstacles to the enforcement of the liquor laws, nor are they by any means inhabited exclusively by a drinking class. The strongly represented foreign element in these quarters belong to nationalities noted for comparative sobriety. Philadelphia lays claim to the title of the "most American" of our large centres. Its foreign-born population constitutes but 25 per cent. of the total, the Irish ranking first, with 10 per cent.; the Germans next, with only 7 per cent.; the English with 3 per cent. It has, however, assimilated a foreign immigration of larger dimensions than perhaps any other city. And the process has been thorough. While racial types and characteristics still linger, the foreign customs, habits, and standards have not

been perpetuated, or, at most, have left but faint traces. The colored population in 1890 numbered 39,371.

To the large commercial and second or third rate maritime interests of the city are added those of one of the greatest manufacturing centres. In its immense establishments, and in a host of lesser ones, the workmen are of a higher grade than the ordinary.

The schemers for local liquor legislation made Philadelphia their chief object of solicitude. In 1849 a special act was passed for this city permitting any man to sell liquor who could pay for a license. This law worked its own undoing, and in 1854 Philadelphia gave a large majority for prohibition; but this was overcome by an adverse majority in the rest of the State. The laws of 1856, which, as has been said, variously amended, remained in force until the passage of the Brooks bill, did not affect Philadelphia in some of their main provisions. The licensing authority was not allowed to remain in the hands of the judiciary, but was vested in a Board of Licensers. The licensers, however, performed their duties so conscientiously that the liquor element brought about a repeal of the measure, and also secured amendments, the principal one in 1864, which removed all restrictions in the matter of granting licenses, but left the courts power to revoke them. An Excise Commission of four members was appointed. They were not expected to, nor did they, exercise further authority than to require a formal compliance with the provisions of the law. While a mass of red tape had to be unwound before a man could get a license, the privilege was cheap and eagerly sought. The method of fixing a license fee in proportion to the sales was not conducive to honesty. So late as in 1886 no less than 6,016 saloonkeepers out of 6,059 stated that their annual gross receipts did not exceed $4,000, and so escaped with the minimum fee of $50.

In addition to the legalized drinking-places, liquor was dispensed, during the régime of the license commissioners, at numerous groceries, so called, and at other shops. In fact, the violators of the law in the early eighties ran but little risk of serious interference by the authorities. The license commissioners of that period have left no record of their work, but how they performed it may be gathered from some instances of public knowledge. The act of the Assembly creating Fairmount Park forbade the sale of liquor within its boundaries. Nevertheless, licenses for the park were issued, the park commissioners refusing to enforce the law and their own regulations. Notwithstanding the express prohibition of the law, retail licenses were freely granted to wholesale dealers. The provisions of the act of 1881 making it illegal to license the sale of liquor at theatres and other places of amusement were systematically ignored. Saloons might be planted alongside churches and schoolhouses; protests went unheeded. Saloons and beer gardens were open on Sundays. In a few instances, when the abuses became too flagrant, the licenses were revoked by the courts, but only through the persistent effort of the Law and Order Society, not by any exertion of the authorities. Numerous indictments were found by grand juries for selling liquor without a license; but "owing to the great press of business in the courts only a few were tried." Not until 1885 could it be reported as a "no longer uncommon thing to have liquor-dealers convicted in our courts by petit juries." If, however, the person convicted belonged to the class of unlicensed dealers, he usually escaped by paying a fine equal in amount to the cost of a license, or by promising good behavior in the future. As a matter of course, resulting from the indiscriminate mode of licensing, the retail traffic was largely in the hands of the least responsible of dealers, dives flourished on every hand, and public intoxication was too common to excite much comment.

It were unjust to say that this state of things was simply owing to the moral apathy of the community. The General Assembly had repeatedly been memorialized to furnish some relief, but the restrictive measures enacted remained unheeded. It is nearer the truth to state that the liquor interest fettered the hands of those in power by threatening them with political annihilation. The license commissioners were chosen at the bidding of the trade. The public prosecutors held elective offices, the police magistrates were generally ward leaders. The judiciary could not be asked to interfere, and its power to revoke licenses had not been fully established. Under the old city charter there was no centralization of municipal authority, the police force was a part of the political machine, its organization imperfect, and the mayor, its virtual head, could not compel it to secure obedience to the laws.

Party considerations superseded all others. To reach office and keep it required votes, and the saloons commanded the suffrages of many.

The strength of the liquor traffic in Philadelphia in 1886 may be illustrated by the following figures: —

The number of licensed saloons was 6,059; for the whole city there was one saloon to 26 voters; one public schoolhouse to 644 votes; one church to 244 votes; and the average number of inhabitants to each saloon 139.82.

It must not be inferred that the conditions in Philadelphia were typical of those prevailing throughout the State. This city and Pittsburgh suffered under local laws guaranteeing in fact the liquor trade a non-interference, which it had not, with a few exceptions, secured elsewhere. From these cities, accordingly, issued the most urgent appeals for restrictive and more uniform legislation. The high-license law of 1887 may properly be called a Philadelphia measure, being draughted and urged by citizens of this municipality. It was not really a matter for surprise, as so frequently

remarked, that, with a liquor interest so strongly intrenched, the law of 1887 could be passed.

The leading dealers were shrewd enough to see that the retrenchment of the privileges of the trade, necessarily growing out of the proposed changes, would, to the fortunate ones, mean a golden harvest, regardless of the higher fee to be paid. The true significance of giving the entire power to deal with liquor licenses to the judiciary was not apparent to the trade in general.

THE LIQUOR TRAFFIC UNDER HIGH LICENSE.

The "Brooks law" went into effect in 1888. The first license court in Philadelphia sat from the last days of February until the middle of May, 1888. No less than 3,426 applicants appeared before the judges anxious to pay the fee. The courage and high sense of duty of the new licensers was a revelation to many. The character of each applicant was closely inquired into. Maps had been prepared showing the location of all the places petitioning for licenses with a view to their better distribution. Of the great number of applicants, the court refused licenses to more than 1,340. "Many bold and defiant lawbreakers were rejected." Much of the credit for the reduction of licenses was due to the Law and Order Society, which supplied the needed information and prepared remonstrances. The rigid censorship of applications, and the demonstration that the court discharged its licensing functions without fear or favor, had a subduing effect on the liquor-dealers. The license became a valuable franchise not to be jeopardized by gross violations of the law. Still offenses were common. While the municipal authorities devoted some attention to the suppression of the illegal traffic, the task of keeping the licensed dealers within legal bounds was left mainly to the private organization, the Law and Order Society.

The new law, as has been shown, had not made any special provision for the wholesale liquor trade. In 1889 and 1890 there was a large increase of applications from this class of dealers, the Supreme Court having decided that the Court of Quarter Sessions lacked discretionary power to refuse them. In 1890 nearly a thousand wholesale licenses were granted, and in some instances to persons who had previously been denied retail licenses. Although the acts of 1891 doubled the fee for retail trade, and placed the wholesale traffic under the same restrictions as to the method of obtaining licenses, the scramble for the coveted prizes was not diminished. There was no marked falling off in the number of applicants until 1894. With the expansion and growth of the city, however, the list of retailers has been increased to provide for the "necessary accommodation of the public;" but the number of wholesalers, under the act of 1891, was cut down nearly one half, and it has since remained about stationary. Spasmodic efforts, usually originating in Philadelphia, to bring about the abolishment of the license court and a return to an excise commission, have always failed. These efforts have not even had the undivided support of the trade. Dealers having a firm hold on their licenses could not be expected to relinquish any part of their monopoly,[1] and the creation of an excise board would be tantamount to diffusing the trade.

JUDGES AS LICENSERS.

There is a manifest reluctance among members of the bar to continuing the judges as licensers. This is not based only on the general ground that judicial and execu-

[1] The profits of a few saloons are estimated to range from $20,000 to $50,000 a year. About 70 average from $10,000 to $12,000 apiece. In the middle northern section the value of a license is placed at about $5,000 a year. One saloon catering to mill hands and salt-work laborers makes an annual profit of $15,000.

tive functions should be kept distinct; it rests on far more special grounds. Under the Pennsylvania system, applications for licenses are of course acted upon in open court. (In Philadelphia the license court sits for several days in the month of March of each year.) The judges are required to receive petitions for and remonstrances against the applications. Although in the performance of their ordinary duties no one would venture to try to influence the decisions of the judges by word of mouth or by letter, it is very different in license cases. The feeling is not easily avoided that judges may be approached in these cases. It is a physical impossibility for them to acquaint themselves thoroughly with the merits of each application, the character of the petitioner, and to inspect the place to be licensed, and they must act, and do act, largely on outside advice. Accordingly persons feel at liberty to write to the court, and an application may be decided upon adversely without the applicant's knowledge of the power defeating him. While it has been declared more than once by judges that they will not receive either petitions or remonstrances except in open court, the circumstance that they feel impelled to make this declaration is significant. And notwithstanding the fact that these judges are men of the highest standing, whose work as licensers also merits high commendation, the feeling is widespread among certain classes that they can and must be approached in license cases. A number of so-called "shyster" lawyers, who make it a business to look after the affairs of liquor-dealers, do not scruple to spread the belief that it is necessary to influence the court; and they make it a source of profit. It was knowledge of such proceedings which led a judge to remark, "Should it come to the knowledge of the court that any amount has been paid or promised in excess of a fair compensation for legal services rendered, it will be considered a satisfactory reason for refusing a license."

It seems beyond doubt that in some quarters confidence in the judiciary has been impaired through the medium of the license court, although fair-minded men have nothing but unstinted praise for its actions.

The position of the judiciary is further embarrassed by the circumstance that it is elective. The judges of the Court of Quarter Sessions are chosen by the people for a term of ten years. Election to a judgeship may often be equivalent to a life tenure; yet the fact that the office is elective necessitates the identification of the candidate with party politics. Where the liquor element is a strong factor in politics, it is difficult for him to steer clear of it — at all events it is a source of temptation, especially in the smaller counties. Generally speaking, citizens are naturally prone to suspect a judge, hard pressed in an electoral contest, of reaching out for the liquor vote, and trimming his actions accordingly. Many judges are anxious to be relieved of all executive responsibilities, and particularly of those appertaining to liquor licenses.

To return again to the work of the Philadelphia license court, it is, beyond cavil, performed impartially and with a view to public interests.

The law is explicit on the point that the number of licenses to be issued shall be conditioned by public "necessity," and the position taken by the Philadelphia court appears from the following remark made by one of the judges in 1894: "It will be understood that the court must be satisfied of the public necessity for an increase of the number of licenses before the merits of the particular applicants will be inquired into."

The petitioners therefore bend every energy to convince the court of the necessity for the license prayed for, when the good character of the applicant has been established, and other formalities have been observed. To this end they rely, not merely on the persuasiveness of their

advocates, but upon the indorsements of residents of their neighborhood and on general petitions, as required by the law. The eventual refusal of a license depends mainly on the remonstrances presented. But citizens are generally reluctant to file objections, or secure signatures to remonstrances; and if it were not for the persistent work of the Law and Order Society in this respect, formidable opposition to the numerous applications annually presented would be out of the question, at least at present.

While the rule is followed to renew licenses without question, provided no specific remonstrance is lodged against the licensees, and while many petitions receive no attention whatever, because the court always finds that "enough" licenses have been granted before the list of applicants is exhausted, much original work remains to be done. Besides, the question of license transfers comes up frequently throughout the year.

In order to gain a clear comprehension of the power behind the license applications advocated in the court, as well as of the operations of the laws themselves, the part played by the liquor element in city politics must be considered.

When, in 1886, the number of voters to each saloon, based on the gubernatorial vote of that year, averaged only twenty-six, it required no keen insight to understand the hopeless case of the political aspirant who had gained the ill-will of both the licensed and unlicensed dealers. The special legislation for Philadelphia previous to 1887 reveals the extent of the influence wielded by the liquor trade. Under the outgrown city charter then in force, the management of municipal affairs was certainly open to grave criticism. Under the Bullitt charter (of 1887), the municipal service has been improved, but the activity of the saloon in politics has not diminished. Bossism has been the ruling element in municipal life, accompanied by the usual "rings" and "combines;" and where these exist

vote-getting and vote-holding become the supreme necessity of the hour, which again brings the saloon to the front as a centre of ward politics. Every application for a license must be accompanied by a certificate, signed by at least twelve reputable electors of the wards, boroughs, or townships, indorsing the applicant, and praying that the license be issued. The signing of a certificate does not necessarily mean that the signer is a spokesman for the liquor interest in general. A choice may arise between applicants of widely different characters, one of whom is pretty sure to obtain a license. A signer who gives his influence in favor of the better applicant is not compromised. An applicant in seeking indorsements naturally turns to those upon whom he has, or fancies he has, a hold, and whom he regards as particularly influential. He seeks out first the politicians and office-holders.

The lowest rung on the political ladder is represented in Philadelphia by the office of school director. On an average about thirteen of these officials are elected for each ward. While nominally of a non-political character, the office is much sought as a stepping-stone to higher honors. Of 496 school directors in the thirty-seven wards, 146 signed certificates of license applicants in 1894, and 411 licenses were signed for, an average of 2.81 by each school director.

The lower branch of city councils, which took office in April, 1894, consists of 123 members. With one ward left out, the records of the license court[1] show that eighty-one of them appeared as signers, bondsmen, or counsel — one, both, or all three — for from one to twenty licensees apiece. In fifteen wards every member signed certificates; at least five of these are liquor-dealers. Of the thirty-seven members of Select Councils, the upper house, twenty-

[1] The writer is indebted to Mr. James F. Daily, of the *Philadelphia Ledger*, for the statistics of the license court.

seven became sponsors for licensees by signing or bonding for from one to twenty-five. Of the twenty-eight police magistrates in the city, twenty-three are signers or bondsmen for license applicants. Policemen are frequently found as signers. Seven clerks of the Court of Quarter Sessions (the license court) sign for from one to thirty licenses apiece. A like number of employees in the sheriff's office, and that official himself, sign for from one to fifteen applicants. To this already long list could be added the names of many other city officials — even prosecuting officers — who interested themselves in liquor licenses in 1894. Of the eight Philadelphia state senators whose terms expired in November, 1894, the names of six are found among the signers, counselors, or bondsmen for liquor-dealers in the last license court. Of the thirty-nine members for Philadelphia in the state House of Representatives, thirty signed license applications or liquor bonds in 1894. In August of the same year a city district committee met to decide upon a congressional candidate. This committee included one court official who had signed for thirty license applicants, one member of councils who had signed or bonded for fourteen, and one state senator who had signed eight applications. The candidate agreed upon, and who was elected, had identified himself with the interests of five saloons in his own ward.

The Philadelphia delegation of 1894, which helped select the successful candidate for governor, consisted of sixty-three members. Among these were two liquor-dealers, two directors of breweries, and thirty-eight who were signers or counsel or bondsmen for from one to thirteen license applicants apiece.

From a cursory examination of the records of the last license court, it appears that officials of some thirty Protestant churches attached their signatures to license applications or certificates. That they should do so, notwith-

standing the fact that the ecclesiastical bodies with which they affiliate have declared in favor of an anti-saloon policy, is explained on the ground that they dare not refuse the requests of the liquor-dealers. This is in harmony with the remark of one of the highest authorities on the subject, "Few men, least of all those connected with politics, dare refuse requests to aid applicants for licenses." That men do not always lend their services cheerfully is patent from the anxiety evinced by many lest their names as signers and bondsmen appear in the newspapers.

The indorsement of a license application may be a matter of formality only when it concerns a dealer who is already established in business, and against whom no objection is filed. Yet this does not affect the principle involved, nor the fact that the political strength of the liquor traffic finds expression in the character and position of the men who act as its spokesmen before the license court, whether by letter or by personal appearance.

At the present time it is not supposed that the signatures attached to a license application determine the issue, for the necessity of the place applied for is made the *conditio sine qua non*. But when no choice exists as to the characters of two aspirants, the one who can show indorsements of "a police captain, police lieutenant, member of the councils, and member of the legislature" would naturally be favored before the other, whose signers are persons of a less accepted standing in the community.

The intimate relation of the liquor element to local politics affects the police department in a peculiar manner. It was an open secret under the old régime that the police force was recruited at the bidding of politicians. The new city charter provided for appointments on a civil service basis, but the evidence is strong that a "pull" is still the main dependence of candidates. So pernicious has the political activity of city employees become, that not long

ago the attention of the State was invited to it, in a gubernatorial message, in the following words: —

"The new charter of Philadelphia was granted upon the express stipulation and provision that the vast powers conferred upon the executive should be absolutely free from political interference and control . . . and yet at the last city election the city employees were repeatedly assessed upon official approval. . . . Many of the powers of the municipality, notably that of the police, were used with virulence against the rights of the minority." (Message of Governor Pattison, 1891.)

Citizens have lately protested against the interference of the police in local contests. But the force remains a part of the political machine. Its superior officers are best described as "shrewd, hard-working politicians." As such they are forced to take account of the liquor interest. The bearing of this on the enforcement of the liquor laws is plain.

Whatever care may be exercised in distributing the licenses, the general result, regardless of their number, has not been to provide simply for the "necessary accommodation of the public." The proportion of licenses to the population points in this direction. It is rather a common thing to find two or more saloons on opposite corners, and that in the largely residential quarters of the city. Apparently no systematic effort is made to centralize the sale in the business section, although the trade naturally gravitates towards it. The isolated situation of some of the wards enhances, perhaps, the difficulty of such a plan. The method now followed brings the saloons into all neighborhoods. So far as is known, there is no concerted action in any ward to have them excluded. Yet at least two wards could do so by virtue of old local option laws, which were passed before the districts were annexed to Philadelphia, and have not been repealed. Late attempts at reviving these laws have failed for want of public support. In

general, it may be said that the saloons keep pace with the movement of population. The average number of inhabitants to each license is at present about 562. The number of licenses granted has been greatly reduced since 1887. In that year the number of retail licenses granted was 5,773; in 1890, 1,173 out of 2,921 applications; in 1894, 1,667 out of 2,729 applications.

Reference has been made to the transfers of licenses. In other States a liquor license is regarded as a personal privilege like the temporary commission of an official. In Pennsylvania both local and personal transfers of liquor licenses are recognized. The latter kind is effected, subject to the approval of the court, only on the payment of a sum approximating the value given to a place by the fact of its being licensed. In so far the license is regarded as property, but it is not held as a part of a person's estate which can be attached for debt or devised to others upon his death. Usually transfers are allowed only upon the plea of advanced age, ill health, or similar conditions. In all cases the person to whom the license is transferred must comply with all the formalities prescribed for original applicants, except, of course, that he is not required to pay an additional fee. This transfer business has grown rapidly of late, and easily leads to abuse.

A classification of the licenses operated in 1894, and the fees paid by them, follow: —

61 brewers	$61,000.00
187 wholesalers	187,000.00
263 bottlers	78,900.00
1 distiller	1,000.00
1,664 retailers	1,664,000.00
City and appraisers' fees	7,300.56
Total	$1,999.200.56

The restraints resulting from the present laws which best serve to hold the dealers in check are the discretion

exercised by the courts in granting licenses and the knowledge that the license may be revoked if sufficient cause is shown, the licensee then becoming forever debarred from obtaining a new privilege in any part of the Commonwealth. The judges, however, appear reluctant to resort to so extreme a measure. It has even been held that one or two violations of the law, unless of the gravest character, are not sufficient cause for revoking a license. When a case of this kind arises, it is not referred to a jury. The complainant applies for a rule of court citing the defendant to show cause why the license in question should not be revoked. In 1894 no licenses were thus canceled. The judges prefer to punish offenders by refusing a renewal of their licenses. For various causes, twenty-three bottlers and seven retailers lost their privileges at the last license court.

In consequence of the valuable franchise, regardless of its cost, which the liquor license has become, the tone of the whole trade has been raised. The improved character of the saloon is remarked upon by all observant citizens. Sunday selling has ceased, and minors are usually kept out of the saloons. The wholesale dealers have stopped selling liquor to be consumed on their premises. In many places great care is taken not to sell to persons already visibly under the influence of liquor.

The fear of the dealers, however, is not so much of interference on the part of the municipal authorities as of the Law and Order Society. By common consent, the closer observance of the law is to be credited chiefly to the unremitting labor of this organization. With it the complainants file their statements, and they look to it for action. But with the means at its command it cannot keep the large number of saloons scattered over so vast an area under constant surveillance. Infractions of the law are by no means uncommon. Latterly, a number of dealers

have shown unusual boldness. Since the last license court, at least fifteen saloons have violated the law by introducing vocal and other entertainments, to which women and children have been drawn in large numbers.

The absence of any law prohibiting screens and other obstructions to a view of the bar traffic from the street is a protection to the unscrupulous dealer. Policemen, were they generally so disposed, cannot see what is going on within, without leaving their beats, and they are not supposed to enter saloons except for special reasons. Wherever it is profitable to do so, the saloons are kept open from shortly after twelve o'clock Monday morning until the same hour Sunday morning, except on election days. It is not uncommon in certain sections of the city to see a string of men waiting for a saloon to open as soon as the last hour of the legal Sunday is over, some of them carrying the inevitable "growler."

The law does not provide for analysis or for any inspection of the liquor retailed, and many saloons are known to sell an article of the most injurious kind: the so-called five-cent whiskey, which is often nothing but a chemical compound prepared from day to day.

The provision of the law, that the licensee shall be the only person pecuniarily interested in the business of a saloon, and that one man may not control more than one license, is evaded, and, doubtless, to-day, as formerly, numerous retail places are owned by brewers and distillers, the nominal licensee being simply the manager. The obligations of the retailer to the persons who furnish supplies may put him practically in their power. They advance the license money, trust him for goods, take a mortgage on the fixtures. The many judgments executed by manufacturers of liquor against those who sell their goods are proofs of this. It is commonly reported that "combines" exist for the purpose of controlling a number of

saloons. One such, with a police magistrate at its head, is said to own sixteen shops.

THE ILLICIT TRAFFIC.

Under the old law, selling without a license was not infrequent, but the easy access to legalized establishments, every hour of the week, prevented such selling from becoming very profitable. After the introduction of the high license law, the "speak-easy" became a regular institution in Philadelphia. At the present time, liquor is sold without license at the "speak-easies," or "kitchen bars" proper, at chartered and unchartered clubs, at houses of ill fame, and by some druggists. Only an approximate estimate of the extent to which the law is violated can be given. The United States special taxes paid do not furnish a clew. Apparently little effort is made to collect the revenue except from those who hold a city license, from prominent clubs, the "speak-easy" keepers who are brought into court for violating the law, and from druggists. A thorough examination of the internal revenue records confirms this. A policeman having an intimate acquaintance with all sections of the city, questioned as to the number of "speak-easies," replied unhesitatingly, "There are at least six thousand." While this statement must be regarded as exaggerated, it is beyond doubt that the illegal places exceed by not a little the number of licensed retailers. The "speak-easies" are not confined to any particular localities, but naturally abound in the districts inhabited by the less well-to-do people, and in the so-called "slums." The investigation did not extend to the latter places. Most of the illegal venders restrict their business to the Sunday hours, and carry it on in private houses. Custom is sought exclusively among acquaintances. No strangers are admitted unless vouched for by friends. On a Sunday afternoon or evening, one may, in

certain sections, wander from block to block, and find from one to half a dozen "speak-easies" in each. None appears to lack trade, nor is heavy drinking the exception. A dozen persons seems a small gathering in a "speak-easy;" frequently from twenty to thirty, both men and women, are found crowding the narrow quarters. Neither the proprietors — often women — nor their guests are always of that brutal type one involuntarily associates with the illegal liquor traffic. Exceptions, however, are not wanting. Other vices than that of drunkenness find a congenial soil in the "speak-easies." Another class of "speak-easies" continues operations throughout the whole week. They are commonly run under the guise of cigar stores or news-stands. The multitude of small tobacco-shops in Philadelphia attracts the attention of the observant visitor. Closer inspection shows that many of them do not depend upon a legitimate trade. The sale of liquor in a rear room, accompanied by gambling of various kinds, is the main source of profit. Again, men who have been employed in large mills or factories establish "speak-easies" "for the accommodation of friends," as one of them remarked, for mill-owners and manufacturers sometimes object to the proximity of saloons to their works.

The question, Do not the police try to suppress the illegal selling? must be answered both with a yes and no. Raids are made, in some years a good many, but never unless there is full evidence of guilt and always upon warrant. On the other hand, there is proof that the small fish are caught and the big let go. Instances have appeared where detectives detailed to collect evidence about "speak-easies" have reported their non-existence, in direct contradiction to the testimony of reputable citizens. When a ward leader undertook to defy the law, he was permitted to run an establishment differing but little in appointments and size from an ordinary saloon. When the complainants

grow too clamorous, it often happens that the police will warn the offender, and give him time for exit. The friendly relations between police officers and "speak-easy" keepers is shown by the fact that strangers may be introduced to the resorts of the latter by policemen in person. It is vain to deny that the police profit from the illicit trade. It is not understood that blackmail is levied systematically or on a large scale. Weekly stipends of from $5 to $25, according to the business of the particular place and the other illicit practices accompanying the sale of liquor, are mentioned as being paid, but in a roundabout way. The police are repeatedly assessed by their superiors, and it is but a part of the system that the former should seek to recoup themselves. The temptation, as well as the opportunity, is daily at hand. Whether this kind of protection is extended by others than the rank and file of the force is not positively known. Those highest in command are certainly above suspicion, but they are too much entangled by party consideration to act in the matter, even if aware of the true state of things.

Illegal liquor-selling goes on in a multitude of clubs, so-called. There is no provision in the law under which a club may be licensed. The right of a chartered organization to dispense drink to members has never been seriously challenged until of late years. The rule has commonly been held by the courts that the high license law does not apply to clubs when selling is restricted to members. There is, however, a diversity of opinion on this subject. Lately a decision was rendered declaring all club sale of liquor illegal. The question is likely to remain in dispute until an opinion has been rendered by the Supreme Court. Since the high license law went into operation, the number of the so-called social clubs has increased prodigiously. Some of them are recognized political factors, and have other purposes than the sale of liquor for profit.

It is apprehended, however, that liquor-selling is the principal motive of these mushroom organizations. The regularly chartered associations of a distinctive club character are not more than seventy-five in number, if so many, and represent only a fraction of the "clubs" where liquor is sold. Some of the latter have obtained charters from the Court of Quarter Sessions, but the majority have none, or masquerade under the charters of disbanded societies of which they have come into possession.

Members are usually admitted to the rooms by key. The discrimination as to membership is not severe, provided the visitor is considered "safe." Some clubs draw exclusively on workingmen, who pay weekly dues of twenty-five cents each, which entitles the member to bring a friend. The business done in one of these establishments may be inferred from the fact that bar receipts of nearly $650 were shown for a single Sunday. It was hardly surprising that not one of the members was sober. The colored residents have their own drinking-clubs. When a club of this description has a political tinge, especially when ward leaders are enrolled among the members, — no matter how low its order, — it is not interfered with. Clubs where gambling is the chief diversion, next to drinking, thrive under the shadow of the Public Buildings. Yet it must be conceded that, under the existing conditions, the authorities cannot very well meddle with the chartered clubs without acting arbitrarily.

The legal provision enjoining the ward constables to report to the courts the number of licensed and unlicensed liquor-shops within their respective bailiwicks is a dead letter.

Of the 740 druggists in Philadelphia, some are known to do a lively trade in spirits other than alcohol, which latter may be sold for special purposes without a license. The best informed persons, however, hold that comparatively few druggists offend in this respect.

ARRESTS AND PROSECUTIONS.

Infractions of the law by licensed dealers do not always lead to their arrest. More commonly, as already remarked, a rule of court is applied for to show cause why the license of the offender should not be revoked, or the matter is allowed to rest until the next sitting of the license court, when renewal of the license is refused. The difficulty of obtaining sufficient evidence to convict in liquor cases has also been referred to. The statistics of arrests for violations for the last ten years show the following totals: In 1884, 15; 1885, 15; 1886, —; 1887, 103; 1888, 195; 1889, 203; 1890, 235; 1891, 523; 1892, 363; 1893, 280; 1894, 270. The largest number of arrests for selling on Sunday were, in 1887, 75; 1888, 50; 1892, 90; 1894, 80; the smallest were in 1885, 8; 1891, 5. The largest number for selling to minors, in 1887, 22; 1888, 21; smallest in 1884 and 1894, 1 each. The marked increase in arrests after the introduction of the high license law points no less to an increase of illicit selling than to more vigorous efforts to enforce the law. The large number reached in 1891 was chiefly due to a change in the police department, resulting in unwonted zeal in rooting out "speak-easies," which, however seems to have subsided.

There are several halting-places before the arrested offender is finally brought to trial. He is first arraigned before one of the police magistrates. The office of magistrate, it should be remembered, is elective, the term being for five years. Although really representing the lowest branch of the judiciary, it is not necessary that those sitting in magistrates courts should be members of the bar or even be versed in the law. They are frequently found to lack both of these qualifications. They reach and hold office by means of political scrambling. "Ward leaders" is the epithet often applied to them by the press. As such,

peculiar duties sometimes confront them; for instance, when a "ward heeler" is brought before them to be arraigned. It is not intended to convey the impression that all the magistrates are embarrassed by political obligations, or that all are unfitted to properly discharge their great responsibilities; but it is a significant fact that some of those who have been most vigorous in dealing with liquor cases have been "turned down" when seeking a renomination. One listens in vain for an expression of thorough confidence in the magistrates as a body. They keep no record of the warrants issued by them, nor is any but the scantiest information regarding their work given to the general public. Whether their leniency is accountable for the discrepancy between the number of persons arrested for violations and of those brought to trial is not known positively; but they have it in their power to grant more than one favor.

If held, the trial of the accused is not yet a matter of certainty. The action of the grand jury must first be awaited. A disposition to regard violations of the liquor law as essentially differing from other misdemeanors is known to manifest itself in that body. If an indictment be found, it remains for the district attorney to bring the accused to trial. The time intervening may, however, be long, and this is a distinct gain to the defendant. Besides, liquor cases appear to be handled with greater reluctance than others, and it is difficult to get direct evidence. The fact, too, that the prosecuting officer holds an elective position is fateful to more than one liquor case. When the trial takes place the chances of the defendant may be materially improved by the manœuvring of his counsel. Not all judges take the same view of offenses against the liquor laws. Some regularly suspend the sentence of first offenders, although a bond must be given to insure good behavior for the future. "It has now become a settled practice

of these men (the defendants in liquor cases) to have their cases continued whenever they happen to be brought before a judge [1] who, it is believed, will impose both the fine and imprisonment provided by statute." (Report of the Law and Order Society, 1894.)

The hoped-for clemency of the court doubtless explains why so many of the defendants plead guilty. It should be noted that the persons discharged under bond cannot, as held by some judges, be resentenced after the expiration of one year. In jury trials, a verdict of "not guilty" is rendered in more than one half of the liquor cases. An analysis of the statistics of the trial and disposition of cases for violation of the liquor law in 1892, 1893, 1894, yields the following results: —

	1892.	1893.	1894.
	Per cent.	Per cent.	Per cent.
Of the persons brought before the court, the plea of guilty was made by	69	39	66
Of the persons actually tried, were acquitted	77	54	60
Of the persons actually tried, were convicted	23	46	40
Of the persons pleading guilty or convicted, were sentenced to fine and imprisonment . . .	78	45	47
Sentences of persons pleading guilty or convicted suspended .	21	54	53

In a majority of cases, the jury trials result in acquittals, partly, perhaps, because violation of the liquor law is an offense more easily condoned by the public than others, and partly because of the difficulty in producing over-

[1] The Court of Quarter Sessions in Philadelphia is composed of twelve judges.

whelming evidence. Should a verdict of "guilty" be rendered, there is more than an even chance that sentence may be suspended. Only in rare cases is the full term of imprisonment allowed by law imposed; never, it is said, the maximum fine. Still, sentences to a year's confinement and the payment of a fine of $1,500 or $2,000 are sometimes recorded. A judge may reconsider the sentences imposed within his term of court. In this way the offenders occasionally escape a part of the punishment.

The law of Pennsylvania gives prison inspectors the right to discharge prisoners who have not paid their fines, upon their making oath to a statement that they do not possess money or property of any kind. This relieves the prisoners from waiting three months to take advantage of the insolvent debtor's act. Within a short time after the introduction of the high license law, fines to the amount of $38,850 were imposed for illegal selling, but only the sum of $100 was paid (this by a woman). Later, seventy-two persons were released in one year without having paid their fines. In 1893 and 1894, 141 violators of liquor laws were sentenced in Philadelphia, and fines imposed aggregating $78,340, not a cent of which has been collected, except in a few cases the costs ($16.75).

ARRESTS FOR DRUNKENNESS.

The law governing arrests for drunkenness formerly imposed a fine of five dollars, which in 1858 was reduced to two dollars, but later again restored to the old limit. The large powers conferred upon the authorities by this act — any person seen intoxicated could be fined by mayor, alderman, or justice — have been impaired by a decision of the Supreme Court to the effect that a police officer has no right to arrest a citizen merely because he is under the influence of liquor, if he is not guilty of a breach of the peace. The penalty imposed is now usually a fine of four dollars

and costs, and, in default of payment, imprisonment. There is no system of probation. Officials in the penal institutions assert that magistrates are often arbitrary in dealing with intoxicated persons, and that the latter do not always get a proper hearing.

The decreased number of arrests since the high license law went into operation is so universally put forward as proof of its benefits that the subject merits special examination. Data seemingly warranting the assumption that the reduction of licensed places is followed by a proportionate diminution of consumption is not of a kind to be accepted unreservedly. In Philadelphia, as elsewhere, beer drinking appears to be on the increase, and supplanting to some extent the consumption of distilled spirits. The brewing interest of Philadelphia has grown enormously, and now represents a capital of over thirty million dollars.

Prior to the high license law the drinking classes resorted almost exclusively to the saloons, which were everywhere near at hand, and open at all times. The sellers had nothing to fear from selling to persons on the verge of intoxication or wholly drunk. Ordinarily they had no reason to shield such customers, and upon becoming obnoxious these were probably thrust into the street, only to fall into the arms of some policeman. Where intoxication was largely public in its origin the list of arrests would inevitably be swelled in some proportion. With the sweeping reduction of saloons in 1888 began the illicit selling by "speak-easies" and clubs which has assumed such magnitude, and necessarily affected consumption; still the intoxication resulting from it is not generally traceable in the police returns. Personal investigation has led to the conclusion that habitués of "speak-easies" are not limited as to the quantity of liquor they may obtain, but that great care is taken to prevent them, if intoxicated, from falling victims to arrest. They are not ejected

even for cause, but are permitted to sleep off the debauch on the premises. For should it appear that the place was a prolific source of drunkenness, neighbors might complain, if the police took no action, or it might result disastrously to the "speak-easy" keeper should the arrested person, from revengeful motives or under compulsion, divulge where he became drunk.

The class of the drinking population which furnishes inmates for prisons and workhouses are no more deterred from getting liquor when the saloons are closed than formerly, for the unlicensed places are open.

All available information indicates that home drinking has grown. Many intelligent workmen consulted are agreed on this point, and they deplore the frequency of drunkenness among women. "The beer does it," one of them remarked. Beer is cheap, and supplies are easily obtained. The fact is noteworthy that Philadelphia has only 187 wholesale dealers, but 263 bottlers, who pay a lower fee. The wares of the botlers are often sold directly from the wagon without previous orders. In this manner, not only saloons are supplied, but private houses as well. The traffic (the legality of it has not been tested) amounts in some cases almost to peddling beer.

When comparisons of the statistics of arrests for drunkenness are made with those of other cities, it should be remembered that Philadelphia, considering her area, is not properly patrolled. The longer the beat to be covered, the less the disposition of the officer to meddle with intoxicated persons, and the better opportunity for the latter to go undetected. With a larger police force, and one less touched by outside influences, it is obvious that the arrests would have been larger both before and since the high license law.

Statistics for the ten years (1884–1894) show the following totals of arrests for drunkenness, the number including

the three classes, — common drunkards, drunk and disorderly, and intoxicated persons : —

ARRESTS FOR DRUNKENNESS IN PHILADELPHIA, 1884–1894.

	Total.	Arrests per 1,000 estimated Population.
1884	29,382	31.69
1885	30,439	32.14
1886	–	–
1887	35,417	35.88
1888	26,050	25.86
1889	21,062	20.50
1890	25,925	24.76
1891	25,898	24.27
1892	27,346	25.15
1893	29,278	26.45
1894	29,204	23.80

Although the arrests per 1,000 inhabitants have decreased perceptibly since the enactment of high license, they have not fallen so much below those of the years previous to 1887. The upward tendency from 1892 to 1893 is explained by some persons as the consequence of an increase in the number of licenses. The arrests in 1894 were numerically greater, but not in proportion to the growth of population. Stringent times have of late crippled the purchasing power of many drinkers. The fact remains that arrests for intoxication have diminished under high license, but this is not conclusive proof of actually greater sobriety. Prison officials incline to the view that there is but little difference in the amount of drunkenness. The fact that fewer persons are charged with disorderly conduct while being drunk must be credited to the better character of the saloons. The number of habitual drunkards has

not fluctuated much, but what constitutes the offense of habitual drunkenness is not clearly defined. The charge of vagrancy may often be preferred against a person originally arrested for being drunk, that he may receive a longer term of confinement. The somewhat arbitrary mode of dealing with this poor class of humanity makes it impossible to determine with any degree of accuracy the number of recommitments for intoxication in the course of a year. In 1888–89 a reduction of licenses was followed by a decrease of arrests for drunkenness, but the next year the arrests increased, though the licenses were decreased. But during the last two years the number of arrests has not kept pace with the increase of saloons.

The best evidence of a law-abiding spirit among the licensed dealers is the statistics of Sunday arrests, which show a falling off from 2,101 in 1886–87, and 1,263 in 1887–88, to 628 in 1892–93, and 541 in 1893–94.

DELAWARE COUNTY.

One need but look across the city line into Delaware County to find a license policy in vogue utterly different from that pursued in Philadelphia. Much of this section is suburban to Philadelphia. With the exception of Chester, there is no city here of any magnitude, the population (74,683 in 1890) being strictly rural where not domiciled in small villages or boroughs. Under the present county judge — he has held office for twenty years — a license régime of the most liberal type has existed. A brief review of the doings of the last license court will serve to illustrate the possible workings of one provision of the Pennsylvania law.

The annual license court for 1895 was held on the 2d of January. All the old applicants, seventy-six in number, had their licenses renewed, none being remonstrated against. Of the thirty-nine new applications, five

were granted, thirty-three were held under advisement after being argued at length, and but one was refused outright. A long contest ensued over an application for a hotel license in the borough of Darby (population 2,972), which is within a few minutes' walk of the Philadelphia line, and no farther from licensed saloons. The remonstrance was signed by 1,270 adult residents of Darby borough and vicinity, of whom 670 were adult residents of the borough; 297 resident tax-payers, and thirty-four non-resident; forty-five of the fifty-five business men of the borough; the burgess, president, and five of the six councilmen; five of the six school directors; 267 adult male residents of the borough from a registry list of 510; the whole clergy and a number of educators. The court refused to consider the names of women signers. The petitioners presented a list of signatures of about the same length. The court stated that, if a majority of the resident tax-payers were in favor of a license at Darby, he would grant it. Two hours were spent in pruning the lists, each side trying to prove a majority. The court figured up a majority of four for the license advocates, but a number of names remained in dispute. Decision was reserved. Five days later, the judge began his third successive term on the Delaware County bench. His first duty was to dispose of the new license applications left over from the regular license court. Nineteen were granted, and among them the Darby license. In rendering his opinion, the court said that a small majority seemed to be in favor of license. This was one reason, but there was a better one.

"The remonstrants admit that a house is needed for travelers and strangers, but also say there is no necessity for a public house. The opposition here shows the necessity. The Supreme Court has ruled that where the necessity is established beyond doubt, no matter how large the remonstrance, the license must issue. It would have made no difference if the remonstrance had been signed by every man, woman, and child

in Darby, after the necessity had been shown by the minimum number of signers. Those who signed the remonstrance did so because they believe it morally wrong to sell intoxicating liquor. They may be morally right, but the law is against them."

For the first time in eight years Darby has a liquor license. A few minutes after the license was granted, it was transferred to another person, who had but fifty-four names on his petition, and who filed his application a week later than required by law. But that made no difference.

In another instance, the court, being assured by an attorney that it was the "wish of every officer in this courthouse" that the license in question should be granted, said he would do so, and added, "While I can't see that the place is necessary now, I hope it will be."

The following is taken from a press report of the work of the last Delaware County license court: —

"Fernwood, that never before had a licensed house, will now have two (population 619); Marcus Hook will have two more; Clifton Heights, one in addition to two old ones (population of the latter place, 1,820); and there will be new hotels (with bars) at Leiperville and Tinicum. Little Tinicum, with less than 100 voters (population 224), now has three hotels. Eight new ones have been granted in Chester and four in South Chester,[1] in districts where there was already one almost in every square. In Chester City there is one drinking-place to every 125 voters, and in the county at large one to every 160, and 746 inhabitants to each."

Further evidence of the close alliance between the licensing authority and the liquor trade in Delaware County is not needed; it is a matter of notoriety throughout the State. The question of granting as well as of refusing licenses is purely one of politics.

[1] On the day that three new saloon licenses were granted for South Chester, three grocery stores were closed by the sheriff.

HARRISBURG.

The inland cities of Pennsylvania present a marked diversity of conditions with respect to population, occupations, interests, and local sentiment. This circumstance must be taken closely into account when the operation and effects of the liquor laws are inquired into.

The city of Harrisburg in some ways stands in a class by itself. As the capital of the State, it is subject to peculiar influences. Every two years there is a large influx of strangers, the legislators and their followers. As the seat of government, it attracts many visitors throughout the year, and it is the favorite place of meeting for conventions. All this leads to an unusual degree of hotel life, both high and low, which exerts a direct influence on the drink question.

Of the total population of 39,385 (census of 1890), only 2,517, or 6 per cent., are European born; of the latter, 47 per cent. are Germans, the Irish ranking next. Harrisburg is also the chief market and base of supplies for a large rural population. Its manufacturing interests are not so extensive, but within ten miles are towns given over to large steel and iron industries — foremost Steelton — easily accessible by electric cars. Were a rough element wanting, it would thus be supplied from outside.

Neither Harrisburg nor the county of Dauphin was under local liquor laws when the Brooks law went into effect. Both at that time, and earlier, the licensing authority was exercised by the judges of the Court of Quarter Sessions. With no new powers or limitations under the new law, their policy in granting licenses has not been perceptibly modified. So far as Harrisburg is concerned, they follow the rule of renewing the privileges of all former licensees against whom no specific remonstrance is entered on account of violations. With regard to original applica-

tions, the necessity for more drinking-places is considered first. Some attention is also paid to the locality in which the petitioner would open shop. But on the whole the work of the license court is light. Although a temperance sentiment is by no means lacking in the community, there is not, as in Philadelphia, any systematic endeavor by outsiders to bring about a reduction of licenses by filing remonstrances, and by other means.

It appears to be a requirement here that the barrooms must combine a restaurant business with the sale of liquor. In consequence, two kinds of retail licenses are issued, — one for taverns and one for restaurants. Of the former, some are hotels only in name, although presumably they can provide the tavern accommodations prescribed by the law. The wholesale licenses are of the usual order. Numerically there has been no diminution worth mentioning in applications and in licenses granted since 1886 — two years before the high license became operative. In the slight difference between the number of inhabitants to each license in the last year under low license and in 1894 (511.05 in 1887, 586.80 in 1894) it is impossible to trace a marked change as to the extent of the traffic. But the capacity of many saloons has increased. The tone of the saloons is said to be better. The licensees observe the law with some care, for it pays to observe it, the licenses being more valuable than formerly, chiefly because new licenses are so sparingly granted. Still it is not uncommon to see persons under the influence of liquor being served with more, and the term "minor" is very loosely interpreted. Sunday selling is almost unknown. It would be difficult to show any valid reason why whatever improvement has developed in the liquor trade in this city should not be ascribed as much to other causes as to the operations of the high license law. The "speak-easies" are few, and not of a permanent character. Illegal selling is confined mostly

to clubs, of which there are at least fifteen, the majority of them maintained for drinking purposes.

From the statistics of arrests for drunkenness, no satisfactory deductions can be drawn. There were four years during the period from 1884 to 1893 in which no police reports were made. The force is entirely inadequate to the needs of the city. It is the opinion of the present chief that drunkenness has not diminished under the Brooks law. It is estimated that at least fifteen per cent. of the persons held for intoxication are non-residents, mainly iron and steel workers coming in from the surrounding towns. The mayor acts as police magistrate, and usually imposes a fine as penalty for drunkenness, following impulse rather than any well-defined rule.

DAUPHIN COUNTY.

A hasty survey of the county of which Harrisburg is the centre does not disclose any particular change wrought by the high license law, except that of increasing the revenue. The rural districts, now as formerly, are well supplied with licensed places. To cite some instances: in Hummelstown borough there is one drinking-place to 495 inhabitants; in Williamstown borough, one to 581; in Lykens borough, one to 408. None of these places has a population of over 3,000. In the city of Steelton (owned almost exclusively by a corporation, and with a population of about 10,000), there is one bar to 770 inhabitants.

Licensed places are found in two cities, eleven boroughs, and ten townships, leaving only thirteen small divisions without license. For the whole county the traffic is left pretty nearly where it was ten years ago. While the saloons have not increased in proportion to the population, there is still one license to every 652 inhabitants in the whole county. It is said that, in some places, license applications are encouraged on account of the additional revenue to the townships.

PITTSBURGH AND ALLEGHENY COUNTY.

Allegheny County stands commercially and politically in the same relation to western Pennsylvania that Philadelphia County holds to the eastern half of the State; yet in other respects it presents some strong contrasts. Its development, or rather the development of its chief municipalities, Pittsburgh and Allegheny, has been rapid. But its industrial growth has not proved wholly a blessing. The mines and mills have drawn hither a heterogeneous population containing elements difficult to absorb. Of the total population of 551,959 in 1890, 153,078, or 27.73 per cent. were of foreign birth, and 190,821, or 34.57 per cent., of foreign-born parents. The Slavonic races are strongly represented. The character of the un-Americanized element has displayed itself in numerous labor troubles of which some, latterly the Homestead strike, have become historic.

In Pittsburgh and Allegheny the character of the population has been somewhat modified within late years by the removal of great manufacturing plants to suburban towns — Homestead, Braddock, McKeesport, and others. Of the total number in Pittsburgh, according to the census of 1890, 238,617, or 30.71 per cent., are classed as foreign-born; 10.63 per cent. being German, 8.84 per cent. Irish, 4.25 per cent. English, 1.05 per cent. Welsh, .95 per cent. Russian, 1.15 per cent. Polish, and 88,266 classed as native-born but of foreign parentage, or 36.99 per cent. of the total. Allegheny contains much the same elements of population (total in 1890, 105,287), and in similar proportions.

Whatever its origin, the "tough" element in the municipalities of Allegheny County, although less conspicuous than formerly, is yet renowned beyond the borders of Pennsylvania. But it is not this alone which makes diffi-

cult the solution of important local social problems. Speaking particularly of the larger municipalities, it is but a repetition of a remark frequently made by the natives themselves, to say that the material prosperity has been achieved at the cost of higher things. Money-making and money-getting have absorbed the activities of men to the exclusion of other pursuits. Few of the better class of citizens have found time for participation in municipal affairs, and these, as well as political matters generally, have been left to professional politicians.

In the petition of citizens of Pittsburgh drawn in October, 1895, and addressed to the "Senate committee appointed to investigate municipal affairs in this Commonwealth," it was declared that "our city government . . . is practically a close corporation, controlled and managed in the interest and for the benefit of a coterie of politicians, the people being recognized chiefly for purposes of assessment." It was asserted that "the Department of Public Safety arrogates to itself the authority to suspend the laws of the Commonwealth at pleasure, and to disregard the interpretation of the court;" that under its policy "crime is practically licensed in defiance of law and of decent public sentiment," and "intoxicating liquors are sold in hundreds of places throughout the city seven days in the week without license, and disorderly houses flourish unmolested;" that the fact "that police officials have been enriched by revenue from this source is a matter of public scandal;" that "this department also assumes to control the elections through the machinery of the police and fire departments," the members of which "dare not exercise the right of free speech and free ballot, and are bound to carry out the behests of their superiors under penalty of dismissal; that "the payment of political assessments, regardless of circumstances, is compulsory under the same penalty."

The authors of this vigorous denouncement were not

challenged to prove their assertions, nor did it meet contradiction. The discredit for the management of municipal affairs complained of seems pretty equally divided between the two great political parties. The balance of power is held by the Republicans, but the Democrats are pacified by obtaining a share of the offices. The mayoralty is usually theirs, while the heads of the departments, as well as the legislative branch, are from the other party. Thus friction within the city government, while not unknown, is prevented from growing into disruption by mutual interests.

So long as the State Constitution gave permission, it was a matter of course that Allegheny County, which contained an urban population only second to that of Philadelphia, should be regarded with special solicitude by the promoters of local laws. The uncompromising Sabbatarians and the liquor-dealers appear to have taken turns in securing enactments to meet their requirements. Both won signal success. But while the former were able, among other things, to put on the statute-books strict provisions against Sunday liquor-selling, the latter made sure that the law should remain inoperative by getting a firm grip, not only on those concerned with the enforcement of them, but on the licensing authorities. At the instance of the liquor-dealers the power to grant licenses had been taken from the judiciary of Allegheny County and given to certain commissioners. As in Philadelphia, these commissioners served with little credit. The public opprobrium which they merited and received was in turn visited upon their successors, the county commissioners. The official conduct of the latter caused scandal. The next and last piece of special liquor legislation was comprehensive, in fact, a complete new law, dating from April 10, 1872. A summary of the principal features of this measure will serve to show by whose hands it was fashioned, and that its actual results were anticipated.

The Allegheny County liquor law of 1872 repealed all previous special acts. The granting of licenses was vested in the county treasurer, who was allowed to charge one dollar for each license issued. Only keepers of hotels, taverns, inns, and eating-houses could engage in a retail liquor business. The annual license fee was fixed at $300 in cities and boroughs, and $100 in townships. For each $1,000 worth of liquor sold above the sum of $3,000 in one year, an extra fee of $50 was to be charged, the licensee being required to make a sworn statement as to the volume of his business. Eating-houses could be licensed to sell malt liquors only for a fee of $100. In the country districts a special malt and wine license could be issued, fee $50. Retail dealers were prohibited from selling in quantities exceeding one quart, sales in excess of this quantity being accounted wholesale. The wholesale business was divided into nine classes, and fees fixed in proportion to the estimated sales: a dealer of the first class, supposed to sell to the value of $300,000 or more annually, to pay a fee of $1,000; a dealer of the ninth class, selling below $25,000, a fee of $200. Sales of wine and cider at wholesale were permitted without license. Manufacturers and producers of domestic wines and bottlers of cider and malt liquors, not otherwise engaged in the sale of intoxicants, or keeping restaurants or places of amusement, were permitted to sell malt drinks by the bottle and domestic wine and cider by the gallon, not to be drunk on the premises, without a license. Sales of liquor to minors, apprentices, and intemperate persons were prohibited, under penalty of fine of $100 and imprisonment not exceeding six months. Bars were asked to be closed on Sundays, and at midnight the rest of the week. Liquor-selling in violation of this law was made punishable by fine of from $50 to $200, and costs for the first offense, and for subsequent convictions, confinement in the workhouse for from two to six

months, in addition. The conviction of a licensee rendered his license void, and debarred him from procuring another for a year. Constables were required to report unlicensed places and violations of this act. The license moneys were to go, one fourth to the State, and three fourths to the county, to meet the expenses incident to granting licenses and in building the Allegheny County workhouse.

On the date of the approval of this law, ten townships in the county were authorized by the legislature to vote on the question of granting licenses.

Whatever merit lay in the new law, it was not seriously intended to execute it. The machinery for this purpose was lacking. But little discretion could be exercised by the county treasurer. He had no power to revoke licenses, nor could he direct any officials to enforce the law. His work was largely of a routine character. Moreover, he had a pecuniary interest in the number of licenses granted. He rarely found occasion to deny applications. Whosoever could pay the stipulated fee, and give the necessary security, got a license. Political considerations also kept this official from limiting the saloons. Both political parties were eager to propitiate the liquor element, for it controlled, or rather by it were controlled, the elections. The aspiring office-holder soon recognized the expediency of securing for the dealer a full measure of non-interference, and contributing liberally to his coffers in return for political service. "This was a fearful drain on the pockets of the politicians," says one who has had long experience in public life.

Notwithstanding the ease with which a license could be obtained, hundreds scorned to seek legal protection, and sold without pretense of concealment. So commonly was this done, that the county found it profitable to employ a man on salary to collect evidence against illegal dealers and thus induce them to apply for license. This was purely a

business matter, and had no view to the vindication of law and order. A beer license, which could be made to cover the whole traffic, did not cost much, and to pay for it saved the expense of going to court. The licensed dealers paid no heed to the restrictive provisions of their own law. The few attempts to bring them to justice ended ingloriously almost without exception, in spite of overwhelming evidence against them.

In the last year before the Brooks law went into effect, about 3,000 liquor licenses were granted in Allegheny County, and about 1,500 of these were in Pittsburgh. In round numbers there were 164 inhabitants to each license in the whole county, and 142 in Pittsburgh. The magnitude of the unlicensed traffic cannot be estimated. All who can speak authoritatively on the subject agree that it was enormous.

However, it must not be understood that the whole community was disposed to let the liquor element have full sway. During the two and a half years preceding the enactment of the Brooks law, various Law and Order Leagues were formed in Pittsburgh. Confined at first to different wards, their members have always expended their energy in guarding against violations of Sunday laws. In 1888 the Eleventh Ward Law and Order League brought thirty-two cases against saloon-keepers for Sunday selling, and secured many convictions. Another league, founded in 1886 by citizens of the fifth, sixth, seventh, and eighth wards, seemed more bent on stopping the Sunday sales of cigars than of intoxicants; seventeen were prosecuted for the former offense against three for the latter. A third league, formed the same year, had prepared twenty liquor cases for the March term of court (1887); but "owing to the composition of the grand jury it was thought advisable to present only two test cases, in one of which three members of the league, in addition to the agents employed,

testified. The cases were twice heard at length by the grand jury, and then ignored. Hence the other suits were not entered."

Undaunted by their meagre success, the members of these organizations resolved to form a league embracing the entire city. They were doubtless cheered on in their efforts by the knowledge that they would soon receive a powerful ally in the Brooks law, for its final passage was no longer a matter of doubt. A reference to the work of this league, and of the events accompanying it, will throw some light on the state of the liquor traffic during the last months of the old régime. It matters not that in the judgment of some sober-minded men the league at times displayed a zeal not dictated by wisdom. The springing up of such an association is a telling commentary on the conduct of the sworn officials. For some weeks after its formation the only work that could be done on liquor cases was to collect evidence against violators of the law. Legal complications had arisen. The Brooks law was approved May 13, 1887, and the questions arose, "Did it go into effect on that date, or on June 30, or not until May 1, 1888? And was it constitutional, and, if so, did it apply to Allegheny County?" Until it was known upon which law suits should be based, prosecutions could not be brought. The decision of the Court of Common Pleas to grant licenses under the new act opened the way to an attack at least on the Sunday sellers. Strenuous opposition was encountered from two quarters: the prosecuting attorney for the State made the trial of liquor cases as difficult as possible, and the grand jury refused to consider the most positive evidence.

A few days after the drawing of the first grand jury with which the league had to deal, one of the jury commissioners declared, "We have got this grand jury fixed." Subsequent events showed that he was right. Not a sin-

gle true bill was returned against illegal liquor-dealers. It made no difference that some unwilling constables had furnished evidence, and that the witnesses were of respectability. To crown their work, the jury in each case imposed the costs on the prosecution, even in one where the accused person was unknown to the agent of the league. The actions of this grand jury are best described in the words of one of its members which reached public print: —

"'I was one day acting foreman of the last grand jury. We were given 31 informations from the Law and Order League against saloon-keepers and cigar-dealers. Of the 31 we ignored 29. I was actually afraid to look up at Judge —— for fear I would blush. I tell you, you could not pick out 24 other men in the county who would have had the gall to do as we did in those and other cases.'

"'How about the costs?' asked one of the auditors.

"'Put every d—d cent of them on ——' (agent of the Law and Order League); 'he will have to pay or go to jail.'"

At the next term of court, two test cases were submitted after the grand jury had been specially charged by the presiding judge as to its duties. Both cases were ignored. The court reversed the finding and sent the cases to the grand jury of the March term, 1888. The judge pointedly instructed the jurors, warning them against the mistakes of their predecessors. The two cases were submitted to them the next day and again ignored, while the costs were imposed on the prosecution. One member of this jury had been convicted three times of violations of the liquor law; another had been fined once for selling liquor on Sunday; a third was bartender for a dealer who had twice been convicted of selling liquor on Sunday; a fourth was on the bail bond of the saloon-keeper whose case was considered by the grand jury and ignored.

Meanwhile the first license court had completed its work, which, however, was only of a preliminary nature.

The licenses which it granted were to run only for half a year. Yet the fact that 171 applications out of 240 (in the whole county) had been denied, made the liquor-dealers feel that they were in dire straits. The political campaign of the autumn of 1887 gave them hope of retrieving their waning power. The election of a judge to the Court of Common Pleas was pending. Backed by the Democratic party, the liquor faction supported a candidate who was pledged to interpret the law from the saloon point of view. The literature of the campaign justifies this statement. This is from a handbill circulated on the eve of the election: —

"Vote for the repeal of obnoxious laws! Vote for a free Sabbath and free whiskey! Vote for Judge ——!"

And this from a confidential circular: —

"The action of the last license court is in itself a lesson worth all that can be said on the subject; and the impertinence and opprobrium cast upon a legitimate business by Judges —— and —— will bear fruit, the extent of which will make manifest the indignation of an outraged community. The terrific cleaning out which Judge —— promises for next May leaves no other course open but one of inveterate hostility; and the men who remain neutral, depending upon the eloquence of a lawyer or the justice of this honorable crank, will merit universal contempt."

The "personal liberty" argument did not win the day.

Shortly after the election, the Supreme Court decided that the Allegheny County liquor law was repealed, and the act of 1855 authorizing civil suits for penalties against Sunday liquor-sellers reinstated. Under the latter act, the league had brought its suits, and from June 12, 1887, to March 18, 1888, it secured convictions in 539 cases for Sunday liquor-selling, carrying a penalty in fines aggregating $27,000 (about $50 and costs in each case).

THE LICENSE COURT.

The extent and character of the liquor power in Allegheny County had not intimidated the first license court. In 1888 the law became fully operative. The court sat from March 19 until May 1. Its determination to weed out the saloons was evident from the outset. Maps were prepared showing the location of each place applying for license in the first eighteen wards of Pittsburgh, and the recent career of every applicant was closely inquired into. Men who appeared to have forgotten their own history were confronted with a record of their misdemeanors. For instance, witnesses were on hand to prove that fifteen applicants in one ward had been in the habit of selling distilled liquors on beer licenses.

The mass of remonstrances, prepared on private initiative, materially lessened the labor of the court. But the "terrific cleaning out" of the saloons, which had been promised and was referred to with such bitterness during the campaign of the preceding year, was mainly the work of one judge. Regardless of malignant abuse, threats of personal violence, and the prospect of losing his seat on the bench, he had from the first set himself the task of reducing the number of drinking-houses to the lowest limits. He went to an extreme where no other judge dared to follow. This was especially the case in 1889.

The general attitude of the judges on the license question should be noted. Where nine men take turns in the license court, a wholly consistent policy is not to be expected. In the absence of statutory limitations, as we have seen, the court has but one rule to follow in determining the number of places to be licensed — the necessity of the place for the accommodation of the public. How to interpret this phrase is a matter of individual opinion determined by liberal or stringent views of the drink question

in general. Where the latter prevail in marked degree, a somewhat arbitrary construction of the law is natural. The policy of the Allegheny County license court has been shaped to a considerable extent by the act of the first presiding judge — a man of strong prohibitory convictions. While his impregnability to every outside influence and undisputed honesty have won for him the respect of the better class of liquor-dealers, he has been led to go farther than the law, as generally accepted, intends. For example, the refusal of a license to an applicant admitting having sold liquor to women, or to be carried away in buckets, or because he provides free lunches, is without warrant in law. On the other hand, his rigid examination of every applicant, no matter if already a licensee, his refusal to accept wholesale dealers, brewers, policemen, and city officials as bondsmen, and his endeavor to prevent liquor-selling near the mills have, more than anything else, helped to put the saloons on a law-abiding footing. While, chiefly through the work of this one man, the Allegheny license court has won a reputation of dealing severely with the liquor men, there are conspicuous instances of the appeal to influence in the license court.

Although no one would venture to suggest that judges have laid themselves open to the charge of corruption, it is equally certain that, if an applicant comes armed with strong political indorsements, some of them will not inquire minutely into his antecedents. So long as the judiciary remains elective, it is but human nature that judges, even if they are not all politicians, should remember the political service of others when sitting in the license court. But nothing seems better calculated to inspire the applicants for license with the idea that a "pull" is necessary than the fact that some judges allow their sons or partners to appear before them in liquor cases. Whatever else may be said about this practice, it is one of long standing.

It has proved very profitable to those engaged in it, for they are sure to retain the same clients from year to year. And the fee is of liberal size — $250 for each license — according to the statement of some dealers.

However true it may be that the license court has been free from public scandal, and that as a rule the better class of applicants have been selected, the wielding of the licensing power has not added dignity to the bench. The feeling that "influence" is needed in license cases, which prevails so strongly among liquor-dealers, springs in large part from two sources: the imprudence of some judges and the unprincipled actions of members of the bar.

License transfers are not permitted except in case of the death of the licensee. Formerly, when saloons were sold out by the sheriff, the license was purchasable also.

UNDER THE BROOKS LAW.

One of the effects of the new régime has been to subdue the dealers. They know themselves to be on sufferance, and this has curtailed their political power. While in Philadelphia the applicant for a license finds that he has a hold on politicians, office-holders, and others in influential positions, who readily indorse his papers or sign his bond, this is not the case in Pittsburgh; at any rate, not in like degree. Naturally a number of dealers, if not actively engaged in municipal affairs, still possess considerable influence in their respective wards. These the politicians would be loath to offend; and men in mercantile life who seek their custom are ever ready to testify to their good character. But it is now more frequently the politician who makes the small dealer tremble by intimating that in return for certain services he will see him safely through the dreaded license courts, usually but an empty promise. The old-time arrogance of the liquor element has disappeared, but it remains a factor in politics, both

directly and indirectly: it uses every means to strengthen itself, and is used by others.

The care bestowed on the selection of applicants for license has not resulted in excluding brewers and wholesale dealers from the control of numerous retail shops. One of the best authorities on the subject asserts that in a certain district of Pittsburgh four fifths of the saloons are practically owned by brewers and wholesale dealers. Instances were related of men without capital being advanced sufficient money by their powerful brethren to fit up barrooms, buy stock, and pay the license fee of $1,000.

Considering how poorly the retail shops are policed, it is rather surprising that they keep so well within the limits of the law. Particularly in Pittsburgh and Allegheny, the police officials do not allow themselves any trouble on account of the saloons; much less do the constables. Yet the places are quite orderly. Barroom brawls and stabbing affrays are rare. The closing hours, set at twelve o'clock by a city ordinance, are observed with some degree of punctuality; and Sunday selling is now almost unknown. No doubt a goodly number of dealers desire to keep decent places. Others are impelled to exercise some care by fears of the license court. Police officials would not inform against them, but private persons might. Less conspicuous offenses, such as selling to intemperates and minors, are, however, not uncommon.

Of the 142 wholesale dealers in the county, forty-nine do not pay the United States special tax as such; that is, the tax required from all who sell liquor in quantities of five gallons or more. Consequently these forty-nine are not engaged in a *bona fide* wholesale business, but sell mostly by the quart, although not for consumption on the premises. Some of them offer the vilest compounds under the name of "whiskey" as low as fifteen cents per quart!

A few bottlers are known to do an illegitimate business,

inasmuch as they sell goods from delivery wagons without previous order.

Prior to the Brooks law the illegal dealers flourished almost unmolested. Efforts were made to have the police suppress this nuisance when the new act became operative, but in vain.

In the police report for 1889 it was asserted that during the first year of the Brooks law there was "little or no illegal selling." With some truth the police referred to the unparalleled reduction of licenses in 1889 as the cause of many "speak-easies" springing up, "lured on by financial success; their houses are open seven days in the week." Of such saloons, 792, according to the official report, were supposed to exist in the city. From the police report for 1890 one learns that there has been comparatively little trouble with "speak-easies," "because of relentless prosecution, and because of a large increase in the number of licenses granted." In 1891 it is stated that the "admirable distribution of licenses by the court" had done much to eradicate the illegal traffic, for which there was now no occasion. Later reports are silent on this subject, but privately it is asserted that the illicit traffic has been reduced to a minimum.

The truth of the whole matter is that the police, partly, do not take the trouble to enforce the law and, partly, are too much interested in the illicit traffic to suppress it. Yet they found themselves compelled in 1894 to make 103 arrests for selling liquor on Sunday and without license. So formidable has the competition of illegal dealers grown, that the retailers have taken steps to protect themselves against it. They now employ an agent, who last year prosecuted about seventy-five cases.

The constables, who are supposed to make sworn returns to the court, three or four times a year, of the unlicensed places, cannot be made to perform this duty faithfully.

Their office is elective, and could not be held continuously by men who made earnest war on the illegal dealers. In the words of a prominent county official, "They take toll from violators of the law."

"From the number of ['speak-easies'] that those faithful officials [the constables] do not return," said a Pittsburgh paper recently, "we may judge how many flourish in secret."

The changed relations of the liquor-selling class to the community are constantly witnessed in the criminal courts. Grand juries no longer ignore cases with the old-time effrontery. The fact that they still refuse to return true bills in a large percentage of cases presented may be due to insufficient evidence. The make-up of the petit juries rests largely with the prosecuting officers, who state that they experience but little difficulty in securing convictions. Statistics, however, show that an uncommonly large percentage of trials result in acquittals (in 1893, 57.14 per cent., in 1894, 55.69). There is still not infrequently occasion for judges to address juries in the language recently employed by a judge in Allegheny County, when the jury had refused to consider the most positive evidence in a liquor case.

"Gentlemen, I am surprised. I simply say that you are either unable to comprehend evidence, or have willfully violated your oaths." ("Post Dispatch," September 18, 1895.)

A strange phase of the trial of liquor cases illustrating the peculiar power of the police is the fact that convictions are obtained in nearly all cases presented by them.

Severe penalties are imposed — three to six months imprisonment in the workhouse and a fine of not less than $500. There is usually a double sentence, one for selling liquor without license, and the other for selling on Sunday. The latter is frequently permitted to run concurrent with the former.

The fines are never collected, owing, it is said, to the poverty of the defendants; but this is not the whole truth. There is nothing to indicate that sentences are unduly suspended.

By the trade, Pittsburgh is designated as a "whiskey town;" that is, one where distilled liquors are preferred to beer by a large portion of the inhabitants. Among the thousands of millworkers are many heavy whiskey drinkers. On the whole, drunkenness is very evident. The impression prevails that it has decreased under the Brooks law. If this be true, it can hardly be attributable to the operation of the law, for hundreds of "speak-easies" have always flourished, and under official protection; the fewer the saloons the more numerous have been the illegal shops.

The available statistics of arrests carry us no farther back than to 1889. In that year the police department was reorganized under the new city charter.

These show arrests for drunkenness in 1889, 22.66 per 1,000 inhabitants; in 1890, 28.39; 1891, 27.99; 1892, 20.30; 1893, 15.69; 1894, 11.47. An intoxicated person is not arrested unless disorderly or utterly helpless. Men "staggering drunk" are permitted to wander about in the principal streets.

The arrests for drunkenness have decreased in face of an increase in licensed houses. This seemingly abnormal condition the police attribute to "hard times." Some good men insist that the total abstinence sentiment is making rapid gains in the community. If this be true, it will nevertheless be a long time before its effects will be visible in the police dockets.

LUZERNE COUNTY AND WILKES BARRE.

The immense coal-mining industry of northeastern Pennsylvania has attracted a large European immigration of unsocial character. The least civilized of Hungarians,

Poles, Italians, Irish, and other nationalities have come and made their homes among the mines. Of late years the decreased output of coal, low wages, and scarcity of employment have checked the foreign influx of laborers, and induced not a few to leave the county. Those who remain, however, live on as at first, isolating themselves according to their nationality, aliens by choice, and frowned upon because of their illiteracy, disregard for the law, and intemperate habits.

But the justice of putting all the blame for social disorders on their shoulders, as is habitually done, may rightly be challenged. Their general social, no less than their industrial condition, is not entirely of their own making. Only one class of men — the politicians — display any particular solicitude for them. The process of endowing illiterate Hungarians with citizenship is a simple one where there is a strong one-party rule. It involves neither education nor moral elevation. The effect of a large ignorant vote on the selection of officials is a well-worn story, and so is the dread of politicians of alienating the same vote by measures of reform, for which it may not be ripe, and toward which it feels an innate repugnance. The presence of a large mining population and the corruption of the suffrage have rendered the enforcement of liquor laws, among others, unusually difficult.

As in the rest of the State, with the exception of Philadelphia and Allegheny counties, the granting of licenses has always been a function of the Court of Quarter Sessions. Special laws have never affected the county as a whole for any length of time. Under the local option law of 1872, prohibition obtained in a few places, but it did not produce any lasting effects.

The judges have always observed a policy of extreme leniency toward the liquor element. The ground taken is that they must act on licenses in their judicial capacity

only; that is, exclusively on the evidence produced in court. Thus, while a judge may have personal knowledge of the unfitness of a certain applicant, he takes cognizance only of the evidence produced in court by others. One motive for taking this stand is undeniably the powerful influence of the liquor element. A judge with a record of having attacked the liquor-dealers could never gain a majority of his party's votes in the county. The easily led foreign element would be turned against him — he would be dead, politically. The independent public sentiment is not strong enough to sustain a vigorous policy on the part of the court.

Periodically a long array of remonstrances is presented to the judges, of which some notice is taken. Fluctuations in the number of licenses granted is partly due to this cause. Of late, remonstrances rarely come up for consideration. Private persons have grown tired of the ungrateful task of presenting them, and the officials will not act. Ability to pay the fee and give bonds is the principal concern of the applicant. The would-be dealers need not go begging for good names to affix to their petitions and other papers. "Men don't like to refuse such favors," said a prominent county official. As the court does not subject the names of signers to close scrutiny, the latter need not hesitate to testify on paper to the "good character" of the applicant, and to the necessity of the place for the accommodation of the public.

Since even remonstrances are so rare, it seldom happens that judges are besought to revoke a license. The rule is, once a licensee always a licensee, unless financial troubles should call for the services of the sheriff.

Under the low license system, with a fee of $50, which was displaced by the Brooks law, the number of legalized shops was greater in proportion to the population of the county than now. On the other hand, the "speak-easy"

had not become a fixed institution. But before considering the general operations of the present law, some particulars should be given of its workings in the chief city and county seat of Luzerne.

WILKES BARRE.

Surrounded by centres of mining activity, Wilkes Barre covers an area of 4.14 square miles on the banks of the Susquehanna. Of its population of 37,718 in 1890, 10,194 were foreign-born, or 27.02 per cent., and 13,032, or 34.55 per cent., had foreign-born parents. The Germans and Irish are strongly represented. Of mining operatives, comparatively few are found within city limits.

As politicians, the police officers here cannot, of course, afford to quarrel with the liquor-dealers any more than the judges can. Hence they exercise no supervision over the saloons. Of the illicit traffic they feign ignorance. Numerous saloons sell on Sundays to minors, intoxicated persons, and habitual drunkards. There are no regulations concerning closing hours.

The constables, one from each of the fifteen wards in the city, are elected for periods of three years. Since they seek the despised office (for such it is in Wilkes Barre) simply for what they may get out of it, they will not risk a re-election for the sake of doing their duty by reporting "speak-easies" and violations of the liquor law generally. To quote a high official, than whom there is no better authority, "Four fifths of the constables perjure themselves when making returns to the court."

Intemperance is common, although the police returns do not indicate a high rate of arrest. The penalty for drunkenness is usually a fine of two dollars.

The conditions in other parts of the county are, if anything, worse than in Wilkes Barre, especially in some of the largest mining towns — Pittston, Nanticoke, Plymouth,

Hazleton, and others. In addition to the licensed places, the records of the collector of internal revenue indicate the existence of about 600 "speak-easies." It may safely be asserted that there are more. Nowhere is the law properly enforced. The police and constables display the same indifference. In the few cases where a true bill is found against a liquor-seller, the prosecutor (usually a private individual) is put off from time to time, until he is forced to a settlement of the case out of court. Should he succeed in bringing the case to trial, he is likely to face a jury bent on acquittal regardless of the evidence. It is asserted that care is taken to select jury commissioners favorable to the liquor men.

The following petition, which was handed a gentleman of Wilkes Barre in 1893, to be presented to the Court of Quarter Sessions, speaks for itself: —

"To the Honorable, the Judges of the Court of Quarter Sessions of Luzerne County.

"We, the undersigned citizens of Pittston borough, respectfully represent that the license or liquor law is continually being openly and flagrantly violated in our borough. Speak-easies and dives in almost every part of our borough are open every day in the week. The proprietors of some of them have been arrested; but arrest in some cases appears to be useless for the reason that in many instances witnesses refuse to appear when subpœnaed.

"In two wards of the borough no returns were made by the constables of said wards to the last court. This utter disregard of law and defiance of the courts which they have shown, and still continue to show, is making them more bold, and at present we seem to have no protection from the lawlessness and disorder they are creating. Two men indicted by the last grand jury are still selling.

"We, the liquor league of ——, would respectfully ask your Honorable Court for protection.

"Representing the liquor league of Pittston, etc."

Whether the unenforced high license law is preferable to

low license, except from a financial point of view, is open to question. It is not known that intemperance has diminished under the Brooks law. The illicit dealer has the while multiplied and waxed defiant. Crime is on the increase.

In some of the adjacent counties, Lackawanna (containing the city of Scranton), Carbon, Schuylkill, and possibly others, the liquor traffic is much on the same footing as in Luzerne.

BERKS COUNTY AND READING.

Berks County presents social aspects essentially different from those hitherto studied. It is chiefly an agricultural community, with few industrial interests outside the city of Reading. It may fairly be called a German county, yet there has been no large immigration from Germany of recent date. Indeed, the German, as well as the whole foreign-born population, is unexpectedly small. Of the 141,460 inhabitants of the county in 1890, 5,867, or 4.14 per cent., were born outside the United States, and those of foreign parentage constitute but 5.67 per cent. of the total. Nevertheless, the county bears an unmistakable German stamp. Generation after generation of Germans followed the early refugees from the Palatinate who settled in the vicinity of Reading. Their descendants now till the farms or form a large part of the population of the towns. Although they have long forgotten the tongue of their fathers, German habits and customs have clung to them with singular tenacity. Especially is this true of the country districts, where one still may hear that strange jargon, "Pennsylvania Dutch." Like all Germans, those of Berks County have, from the earliest days, insisted on having their beer, and they have had it in unlimited quantity. The county is dotted with "hotels," where principally this beverage is supplied.

Under the existing conditions it is natural that the judges should follow the policy of granting licenses without stint. Little else need be said about it. So far as the country districts and small towns are concerned, there seems to be little popular sentiment in favor of reducing the drink traffic. It would perhaps be more accurate to say that the people insist upon a liberal license policy, than that such is dictated to the judges by the liquor element. A judge of prohibitory views can hardly be imagined on the Berks County bench.

In 1895 nine applications for license were rejected. This was an unprecedented number. However, a desire to make liquor-selling conform to the law occasionally manifests itself in the license court. Speaking of the club nuisance in Reading, a judge remarked in the court of 1895: —

"Certainly, associations styling themselves clubs, mostly of a temporary character, and in some instances largely made up of minors, are formed for the direct purpose of indulging in excessive drinking and in Sunday drinking. Their supplies are obtained from brewers and possibly others licensed under the wholesale liquor law.

"I shall certainly, whenever called upon to act on a wholesale license petition, exact from the applicant proof satisfactory to my mind that he has not during the year immediately preceding supplied any liquor to club associations such as I have been discussing."

A few licenses were withheld for a week or more, but nothing further came of this judicial threat.

In the whole county there are 344 licenses of all kinds, with 382 inhabitants to each, as against 242 inhabitants to each in Luzerne County.

The Sunday law and other regulations are indifferently observed, but the illegal selling is insignificant. Licenses are never revoked, but once in a while a violator of the law is denied a renewal of his privilege. The officials

seldom report saloon-keepers for offenses and liquor cases are consequently rare in the court. Here, as in many other places, juries are inclined to be lenient with the offenders.

The city of Reading has 182 saloons or one for 356 inhabitants. It is not surprising, therefore, to find that the only public statue in the place commemorates the virtues and services of a great brewer, of whom the inscription says: —

"His zeal sprung from his firm conviction that, in striving to advance the brewing trade, he was working for the cause of national temperance."

Although it was assuredly against the wishes of many citizens that the municipality granted a site for this "monumental infamy," as it has been styled, its erection is not without deep significance. Reading is a "beer town." The brewing interest has a powerful social and political influence.

Beyond some observance of Sunday closing, the saloons do not pay much attention to the law. The police are too closely associated with local politics to interfere with them. Illegal selling is common. Some years ago efforts were made to take the saloons in hand through a Law and Order League. It proved a most unpopular venture and came near disrupting churches. At present no efforts are made to enforce the high license law beyond compelling the payment of the larger fee. In the whole county the number of licenses has been slightly diminished since 1887, but only because of their greater cost.

The arrests for drunkenness and drunkenness and disorderly conduct in Reading from 1885 to 1894 show a low rate, which means, not that there is little drunkenness, but that intoxicated persons are allowed great liberty.

So far as the liquor question is concerned, Bucks and Lancaster counties have much in common with Berks.

The Pennsylvania communities suffering the least from the evils of the drink traffic have not been considered in this report. The fact that some places, for instance, Crawford and Potter counties, are under partial prohibition has no relation to the Brooks law; and that in others liquor licenses are most sparingly granted bespeaks an active temperance sentiment, which directs more or less the action of the judiciary, but not in virtue of new powers conferred by the high license law.

NOTE. The license fees to be paid by wholesale dealers, brewers, distillers, bottlers, and storekeepers have been materially increased.

1898.

THE OHIO LIQUOR TAX.

THE Ohio liquor law is so simple, both in form and application, that an elaborate explanation is unnecessary. The traffic is not prohibited nor licensed: it is simply taxed. The amount of the tax, which is uniform, is fixed by the legislature, and it cannot be changed by any municipality. The sale of liquor is not a crime at the common law. The statutes of Ohio have at no time made it in itself a criminal pursuit.

From 1792 until 1851, when the new Constitution went into effect, the sale of liquor by unlicensed venders, to be drunk on the premises, was forbidden. The only other restrictions were the prohibition of its sale to certain persons, such as minors and habitual drunkards; or at certain times, such as on Sundays and election days; or at certain places. Gaming and disorderly conduct in taverns were punishable. The act in force at the date of the adoption of the new Constitution was the act of 1831, which did not confer the right to deal in spirits, nor did it interfere with it. It merely secured to licensed tavern-keepers the exclusive privilege of sale in quantities less than one quart, to be drunk upon the premises. Under the license system, fireside drinking was the rule; the saloon, as we understand it, did not exist; the tavern was regarded as the traveler's temporary home, and the license was designed to secure to him the enjoyment of such creature comforts as he might lawfully have enjoyed in his own house.

During all this period, whatever may have been the abuse of the hospitality of the tavern to strangers, in con-

sequence of the local patronage of the bar by residents of the neighborhood, but one successful effort was made to deprive innkeepers of their right. The legislature in 1847 passed a local option act, making the issue of a license in any township to depend upon the will of the electors expressed in an annual vote. This act was repealed in 1848.

That the evils of intemperance were felt, however, is evident from the action of the General Assembly in 1851, which repealed so much of the act of 1831 as authorized license, but left the penalties against selling without license intact. The intention of this legislation can have been no other than the complete suppression of the retail trade in malt, vinous, and spirituous beverages. It is a curious and instructive fact that the saloons of Ohio have grown up under the very act which, it was supposed, would render their existence impossible.

The opposition to the liquor traffic further expressed itself in the incorporation, in the Constitution of 1851, of an anti-license clause, in the following words: "No license to traffic in intoxicating liquors shall hereafter be granted in this State; but the General Assembly may by law provide against evils resulting therefrom." A separate vote was had upon this clause, which resulted in its adoption by a majority of 8,982; the votes in its favor being 113,-237, against 104,255 in the negative.

The situation then was one in which the State, the only jurisdiction with power to grant license, refused to do so; the sale of liquor at retail, without license, was strictly forbidden; the sale in quantities not less than a quart, for home consumption, was permitted. This condition could not be otherwise than permanent, unless the legislature should repeal the penal provisions contained in the act of 1831.

Instead of repealing these provisions, the General As-

sembly in 1854 emphasized the existing condition by making it "unlawful for any person or persons, by agent or otherwise, to sell, in any quantity, intoxicating liquors to be drunk in, upon, or about the building or premises where sold, or in any adjoining room, building, or premises, or other place of public resort connected with said building. . . . All places where intoxicating liquors are sold in violation of this act shall be taken, held, and declared to be common nuisances; and all rooms, taverns, eating-houses, bazaars, restaurants, or other places of public resort where intoxicating liquors are sold in violation of this act, shall be shut up and abated as public nuisances, upon conviction of the keeper thereof."

Concerning the original motive and the historical effect of the anti-saloon clause of the Constitution, the Ohio Supreme Court has said: —

"The real significance of this provision has been a source of no little doubt and controversy. Many, if not a majority of the people of the State, supposed that, if no license were granted to traffic in intoxicating liquors, the traffic would be illegal, and perish for want of protection and by the infliction of such penalties as might be imposed under laws made to regulate the evils resulting from the traffic. And it may be observed that the practice that had prevailed under laws enacted at an early day and continued in force to the adoption of the Constitution in 1851, of licensing the traffic in liquors as a beverage, had educated the people to suppose that without a license such traffic could not be carried on in the forms in which it had been usual to license it. If this is a correct interpretation of the provision, it has proved a great delusion, for its practical working has been to make the traffic in a measure free. Laws enacted for the regulation of the traffic have not been enforced, have become in a measure obsolete, and the traffic and its abuses have grown to such proportions as justly to alarm all who reflect upon the interests of the State and of society." (Adler *v.* Whitbeck.)

In May, 1882, the Ohio legislature attempted, in the passage of "the Pond act," to do what the State of

Michigan had done. Every person engaged in the sale of intoxicating liquors was required to file with the probate judge of his county a bond conditioned for the faithful performance of the requirements of the act; to engage or continue in the traffic without having executed such bond, or after the bond should have been adjudged to be forfeited, was made a misdemeanor punishable by fine or imprisonment or both.

The constitutionality of the Pond act was passed upon by the Supreme Court of Ohio in the case of The State *v.* Hipp, which was an action for a writ of mandamus compelling a probate judge to accept and file a bond which he rejected on the sole ground that the act in question was unconstitutional. The court held it to be in effect a license law and therefore void. The ground of the decision is sufficiently indicated in the following citations from the opinion rendered: —

"The provisions of the statute impose conditions precedent to the lawful prosecution of [the traffic in intoxicating liquors]. Non-compliance with the statute renders its prosecution, to any extent, wholly illegal; hence the act falls within the definition of a license law. . . . In substance it is, to all dealers who fail to comply with its provisions, a stringent prohibitory law; and as to all dealers who do so comply, it grants the privilege to deal in such liquors to the extent not prohibited by previously existing laws. . . . The special privilege which is conferred under this act is as plainly a license as if it had been in terms so called. . . . The giving or not giving the bond is not an essential matter. The bond is to secure the payment of the tax. The question of the constitutionality of the act would have been the same, had the legislature not required the bond to be given, but had it required the payment of the same sums for the privilege of engaging or continuing in the traffic."

At the next succeeding session of the General Assembly an act was passed, in April, 1883, commonly known as "the Scott law," which also assessed a tax upon the liquor traffic, and made such tax a lien upon the real property on

and in which the business was conducted. To engage or continue in it without the written consent of the owner of the land or premises occupied for this purpose was, by the terms of the act, a misdemeanor punishable by fine or imprisonment or both.

In The State *v.* Frame, an action by the attorney-general for a writ of mandamus compelling a county auditor to publish the notice required by the eighth section of the act, the Supreme Court held the act to be constitutional. The question of constitutionality was again raised in Butzman *v.* Whitbeck, a petition in error to reverse the judgment of a district court ordering the sale of property to satisfy an unpaid assessment. In that case the Supreme Court decided that the Scott law was "a license law, so far as the act attempts to secure a lien upon real estate occupied by tenants, whether the lease be executed before or after the passage of the act." It therefore reversed the judgment of the lower court. Finally, in The State *v.* Sinks, an action for a writ of mandamus compelling a county treasurer to receive an assessment, the Supreme Court overruled its own decision in The State *v.* Frame, and pronounced the entire act constitutional.

In Butzman *v.* Whitbeck, the court said: —

"When this law took effect, very few [dealers in intoxicating liquors] were equipped with the written consent of the owners of the premises occupied. As to all of this class [dealers who were not tenants] who were not thus supplied, the act was a prohibitory law. . . . It said to the dealer upon another's premises: 'Procure the written consent of the owner of the land you occupy, or bow to the penalties denounced against you.' Without such writing the dealer is a criminal. Armed with it, his business is as lawful as the traffic in dry goods. . . . The act confides to the owner the authority to say whether a dealer occupying his premises shall stand as a criminal before the law. . . . The condition required in the Pond law was to procure a bond; the condition required by the Scott law is to procure the written consent of the owner."

In The State *v.* Sinks, the court said: —

"Surely, if the provision quoted from the Pond law constituted that act a license law, much more does the above provision from the Scott law constitute that act a license law, with respect to any lien upon lands occupied by tenants. . . . The legislature evidently regarded the clause as to tenants vital; the act never would have been passed without it; and, that clause being unconstitutional, the whole act as a tax law entirely fails."

The General Assembly thereupon, in May, 1886, enacted "the Dow law," by which the assessment and collection of a tax upon the liquor traffic was authorized, and the assessment was made a lien upon the real property occupied; but the conditions expressed in the former acts were omitted. No special privileges were granted in consideration of the payment of the tax; and no penalties were imposed upon dealers who fail to pay the same.

This act, in the case of Adler *v.* Whitbeck, an action to restrain a county treasurer from collecting an assessment, was sustained by the Supreme Court, which declared it to be competent legislation, within both the taxing power and the police power of the State, and not a license law. In a subsequent case, Anderson *v.* Brewster, the legal status in Ohio of the dealer in spirituous and malt liquors is expressed with admirable clearness and conciseness, in the following words: —

"The Dow law does not hold out permission to engage in the traffic in intoxicating liquors, nor stamp it with illegality, nor prescribe a condition precedent upon which one may have the right to carry on such business. It repeals that portion of section 6941 of the Revised Statutes which forbids the sale of intoxicating liquors to be drunk in or upon the building or premises where sold; and if one chooses to engage in the traffic, he must do so subject to the burden which is *afterward* imposed upon his business. If he fails to pay the assessment thereon, his business does not thereby become illegal; and although his goods and chattels may by his default become

liable to be levied on and sold, the property of dealers in other commodities is also liable to be seized and sold for non-payment of personal taxes. He enters upon the traffic in intoxicating liquors without a license, and, when found in the business, the law suffers it to continue, but charged with the burden of a tax."

The following is a succinct but accurate account of the present state of the law. The manufacture of spirituous and malt liquors is free. The sale of liquor, either at wholesale or retail, is conceded to be the natural right of every citizen. The law contents itself with forbidding such sale (1) on Sunday or on any election day; (2) to a person intoxicated or in the habit of getting intoxicated; (3) to a minor, except upon the written order of his parent, guardian, or family physician; (4) within 1,200 yards of certain state institutions, or (without a special permit) within four miles of the place where any religious assembly is collected for worship, and so on. The prohibition of the sale on Sunday does not apply to druggists; there are also certain exceptions as to prohibited places of sale, which apply to tavern-keepers and some other persons, which need not be here enumerated. The law does not forbid the combination with the saloon trade of other attractions, as music, dancing, and games, or of other pursuits, such as the sale of provisions or the exhibition of plays; there are no restrictive regulations as to chairs, tables, screens, and the like; the business is open to women as well as to men. It is taxed at the uniform rate of $250 per year for each place so occupied; the tax is a first lien upon the premises. The dealer is civilly liable for loss and damage resulting from the intoxication of any person to whom he may have sold or given any intoxicating liquor; damages include exemplary damages, and may be collected by the husband, wife, child, parent, guardian, or employer of the person injured in property or person; this

liability extends to the owner of the premises. The guardian or any near relative may enjoin the sale of liquor to any individual.

Of the revenue derived from the liquor traffic, two tenths are paid into the general revenue fund of the State, two tenths to the town or county poor fund, and the remainder is equally divided between the municipal police and general revenue funds.

With respect to local option, upon demand of one fourth of the qualified electors in any township, a special township election must be held, to determine whether the sale of liquor shall be permitted or prohibited within said township; if a majority of the ballots cast is "against the sale," such sale is prohibited from and after thirty days after the holding of such election.

The extent to which local prohibition prevails in Ohio is not easily ascertained; there are no official or other records from which to procure the necessary information, without addressing a personal letter to the clerk of every town. There are townships in which there are no saloons, but where no vote has been taken upon the toleration of the traffic, there being simply no demand in them for liquor. It is stated that, including these with those in which local prohibition exists by law, the number would probably fall below one fourth of the number of townships in the State. It is further stated on good authority that in certain townships with local prohibition liquor is openly sold; but beer is sold as cider, and whiskey as tea; a would-be customer must know how to order a drink, or he will fail to get it.

The revenue from the liquor tax is published annually in the reports of the state auditor; the statement for 1888 covers only the payments made in July. The amount of tax "assessed" under the Scott law in 1885 is said to have been $1,079,338.30. Beginning with 1886, when

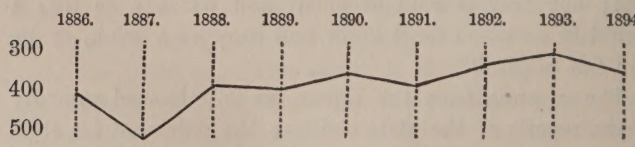
the Dow law went into effect, the total receipts from this source each year for nine years have been as follows: —

1886 . . .	$2,048,450.14	1891 . . .	$2,626,806.12
1887 . . .	1,691,121.50	1892 . . .	2,683,939.07
1888 (estimated)	2,250,000.00	1893 . . .	2,825,142.64
1889 . . .	2,281,576.41	1894 . . .	2,660,654.38
1890 . . .	2,458,554.18		

To calculate the average (not actual) number of saloons paying tax each year, the amounts stated must be divided by 250. Apparently, the immediate but temporary effect of the Dow law was to diminish the number, which is said to have fallen from 8,194 in 1886 to 6,764 in 1887. In 1888 it began to rise. The highest point was reached in 1893. The following table exhibits the average number of saloons each year and the average number of inhabitants of the State at large for each year: —

Year.	Saloons.	Inhab.	Year.	Saloons.	Inhab.
1886	8,194	425	1891	10,507	391
1887	6,764	522	1892	10,734	351
1888	9,000	397	1893	11,301	338
1889	9,126	397	1894	10,643	363
1890	9,834	373			

So far as the number of saloons paying tax, when compared with the population, is a correct index of the consumption of spirits per capita, these figures show a slight increase, graphically represented by the following line: —



Allowance must, however, be made for the greater thoroughness with which the tax is now collected than when the law was still new.

The number of inhabitants to each saloon stated in the table includes the rural population and the residents of townships in which no saloon exists.

There is, so far as I know, but one way by which to judge whether drunkenness is increasing relative to the population. There is obviously no fixed relation between the number of tippling-houses and the amount of liquors consumed; neither is there a fixed relation between per capita consumption and intoxication. It may be assumed, however, that the arrests for public intoxication and for disorderly conduct (which is so largely due to intoxication) in a series of years do afford an approximately trustworthy basis for an opinion upon the question whether drinking to intoxication is more or less prevalent than at some given date in the past.

In the city of Columbus the population and the arrests, including both the total arrests and the arrests for drunkenness and disorder, in 1880 and 1890, were as follows: —

Year.	Population.	Arrests.	For drunkenness or disorder.
1880	51,467	3,561	1,491
1890	88,150	5,319	2,236

The number of arrests per day, in the aggregate, for these two special causes, in each of the two years named, was as follows: —

Year.	Arrests.	For drunkenness or disorder.
1880	9.76	4.08
1890	14.57	6.13

It follows that, compared with the population, the number of arrests in 1880, per day, was one in 5,273; but in 1890 it was one in 6,050. The number of arrests, per day in 1880, for drunkenness or disorder, was one in 12,614; but in 1890 it was one in 14,380. These statistics show a perceptible improvement during the decade.

The ratio of arrests for drunkenness and disorder to the total arrests, in 1880, was 100 to 239; in 1890 it was 100 to 238.

A similar calculation for the city of Cincinnati is presented below: —

Year.	Population.	Arrests.	For drunkenness or disorder.
1880	255,139	9,474	4,160
1890	296,908	13,898	4,297

Arrests per day: —

Year.	Arrests.	For drunkenness or disorder.
1880	25.96	11.40
1890	38.08	11.77

The number of arrests per day in 1880 was one in 9,829; but in 1890 it was one in 7,813. The number of arrests per day in 1880, for drunkenness or disorder, was one in 2,238; but in 1890 it was one in 2,523. This shows an improvement in the matter of drunkenness, but not in that of general respect for law. The ratio of arrests for drunkenness and disorder to the total arrests, in 1880, was 100 to 228; in 1890 it was 100 to 323.

The number of saloons in Cincinnati in 1894 was 1,943. There were that year 2,875 arrests for drunkenness and 1,886 for disorderly conduct; the total arrests for all causes were 15,594. The arrests were equivalent to eight during the year for each saloon, of which two were for intoxication or for conduct which may have been the result of intoxication.

It has been supposed by some competent judges that the substitution of a simple tax upon the liquor traffic for a license would have a marked effect in taking the saloon "out of politics." This opinion receives some confirmation from the experience of the last ten years in Ohio. It is said that, since the passage of the Dow law, there has been but one election for state officers in which the liquor

question is thought to have affected the result. The prohibition vote is small, and it is drawn in about equal proportions from the two leading parties. But the liquor question may still very easily affect the choice of members of the legislature from close districts, and, by changing the political complexion of the joint assembly of the House and Senate, determine the choice of a United States senator. The complication of this irritating issue with municipal politics is as provoking in Ohio as anywhere else. Whenever any municipality attains a certain size, it may be assumed that the eternal local question which, in the absence of a more absorbing and controlling issue, will determine the choice of the mayor and council at every election is whether the town shall or shall not be "run wide open;" that is, whether the laws against liquor-selling, gambling, and prostitution shall be rigidly enforced. The better element in most municipalities demands the strict enforcement of all laws for the suppression of immorality and for the better observance of the Christian Sabbath; it threatens withdrawal of support at the polls from the party in power, if pledges are not given in advance that this will be the policy of the local administration, if the party is successful in electing its candidates. Thereupon, if the pledges asked are given, the so-called "liberal" element in the majority party "scratches" its own party candidates for mayor and councilmen, votes for the nominees of the minority, and this combination results in a political change, in the interest of self-indulgence if not of vice. If the worse element, commonly called the "gang," is in power, it has the opportunity, and often makes use of it, to falsify the election returns and so perpetuate its grasp upon the police force. The odds, in this struggle, are always against the "reformers." The substitution of a tax for a license does not alter the local situation. So long as there is any restriction whatever upon the freedom

of the traffic, the liquor interest will array itself in solid opposition to such restrictions; it desires the maximum of power with the minimum of responsibility, and will make pecuniary and other sacrifices to gain its ends.

The central point of the fight seems everywhere to be the prohibition of the sale of liquor on Sunday. In Cincinnati the police declare it to be impossible to close the saloons on that day. The front doors are closed, and the curtains are drawn, but that is all. There are large beer gardens on the outskirts of the city, which are open all day and during the evening; they are thronged, in pleasant weather, with customers. On every Monday morning the proprietors are called to answer in the police court for the violation of the Sunday law, and the cases are regularly dismissed on the ground that it is impossible to procure juries who will render a verdict of guilty in such cases. The same is true of participants in Sunday theatrical exhibitions. The members of the common council have the nomination of jurors. The penalty involves imprisonment as well as fine. The power of the police is limited to the arrest of offenders; they cannot close the drinking establishments. The mayor cannot revoke the licenses of the proprietors, for there are none to revoke. Bail can be given as many times in a day as any individual may be arrested. In a word, public opinion is not behind the Sunday closing law. To enforce it would involve the defeat of the party so enforcing it at the next ensuing election. The efforts of the police are therefore limited to the preservation of public order, in which they must be admitted to be fully as successful as in other cities of the same size; and it is the personal opinion of the writer that their success in this direction is rather exceptional, owing to the non-partisan character of the force, the thorough system pursued in the training of the men, and the capacity and integrity of the chief.

There is in Cincinnati a "Municipal Reform League," which has for its object "to secure the enforcement of the laws relating to honesty, public order, and morality," and which advocates the election of the best men for municipal officers, without regard to partisanship. It maintains an agent or agents, whose business it is to seek for evidence of the violation of law, and call the attention of the authorities to it. There is also in the State at large an organization entitled the "Anti-Saloon League," which seeks to secure legislation in the direction of the extension of local option, by so amending the present local option law as to provide for the submission, once in every two years, to the voters at every voting precinct in the State, of the question, "Shall the traffic in intoxicating liquors as a beverage be prohibited?" and for the closing of saloons and the prohibition of the traffic in every county, township, incorporated village, city, and ward of a city, in which a majority of the votes cast is for such prohibition. Under existing law, the town is the voting unit; if the Anti-Saloon League succeeds, it will thereafter be but one of several units.

LIQUOR LAWS IN INDIANA, SINCE 1851.

In 1851 the new Constitution of Indiana was adopted. The local and special legislation prevalent under the former Constitution had grown to be an intolerable evil. In the language of the Supreme Court, the State tended to become "a coterie of small independencies, like so many counties palatine." In order to make the State a unit, the new Constitution forbade the passage of local laws for the punishment of offenders and for the regulation of county and township business, and ordained that "whenever a general law can be made applicable, all laws shall be general and of uniform operation throughout the State."

A general law was passed in 1853 forbidding retail liquor-selling "without the consent of a majority of the legal voters of the proper township who may cast their votes for license at the April election." The consent required was to be "determined by the number of votes cast for or against license, to be expressed on the ticket, and no ticket on which the same is not expressed to be counted either way." Consent to the issue of license (by the county auditor) was valid for one year from the date of the election, and no longer.

The Supreme Court[1] held that "the taking effect of this act, or at least so much of it as provided for the issue of license — in other words, whether there should be any power to issue license — was made to depend upon the vote of the people of each township," and that it was "a specious and accommodating refinement on local legislation," contrary to the requirements of the Constitution on

[1] In Maize *v.* The State, 4 Ind. 342.

this subject. Nevertheless, "as a license law, the act is complete in itself, without the part relating to the township vote. So much as relates to that vote may be considered as stricken out, and the license issues on filing the requisite bond." The comment made upon this decision by the court itself, some years later,[1] was that in holding the conditions void upon which the law was to take effect, and sustaining the other provisions of the act, "the court possibly strained the principle that a law may be void in part and valid in part, beyond its just application, in order that the State might not be left without some regulation of the liquor traffic."

Local option, or prohibition by minor political divisions, is of course essentially a compromise between what the people of Iowa have denominated "state-wide" prohibition and "state-wide" license. There, as here, the Supreme Court has held that there can be no middle ground between the two, if laws are to be of uniform application. In Indiana the movement to restrict the retail sale of liquor within narrower limits began with local option, embodied in special statutes. When it was attempted to embody local option in a general statute, the Constitution operated as a bar to such action.

The legislature in 1855 went to the opposite extreme, and enacted a stringent prohibitory law. Imported liquors might be sold in the original casks or packages, without breaking bulk. Cider and wine might be made from fruit grown by the manufacturer, but he could not sell either in any quantity less than three gallons, to be taken away at one time. In order to manufacture intoxicating liquors, a permit from the county commissioners was essential, good for a single year, and the product could be legally disposed of only through county agents. The county commissioners were required to appoint county agents for the

[1] Ingersoll *v.* The State, 11 Ind. 464.

purchase and sale, at the cost and for the benefit of the county, of pure spirituous and intoxicating liquor for medicinal and mechanical uses only; such agents not to be hotel or restaurant keepers, proprietors of any place of public entertainment or resort, or in charge of any vessel; not more than two agents to be appointed in any township, unless such township should contain more than ten thousand inhabitants, and then at the rate of one agent for each five thousand inhabitants. Liquors illegally held for sale, and all devices to deal them out, or to conceal them, were to be destroyed or removed as nuisances.

The constitutionality of prohibition was at once challenged.[1] Roderick Beebe, having been convicted of two distinct violations of the act of 1855, and fined therefor, failed either to pay or to replevy the fines, whereupon he was committed to jail. He secured a writ of *habeas corpus* from the common pleas judge of Marion County. A motion to release him, on the ground of the unconstitutionality of the act, was denied. The case was appealed to the Supreme Court, which ordered the prisoner discharged, but upon other grounds, being equally divided upon the main issue (one judge being absent). The law therefore technically remained in force, although practically inoperative, until, in the case of O'Daily *v.* The State (9 Ind. 494), Nov. 27, 1857, the court unanimously pronounced the law void, but assigned no reason for its opinion.

In Beebe's case Judge Perkins delivered the opinion of the court that the act of 1855 was void, and Judge Davidson concurred with him. From this opinion I make the following citations: "The taxing power of a State is unlimited, and hence may be exercised in such a manner as to prohibit particular pursuits; but an enactment of such description has none of the features of a formal prohibi-

[1] Beebe *v.* The State, 6 Ind. 501.

tory law, for it is based upon the assumption that the taxed pursuit is to exist and not cease. . . . The legislature cannot take the property, the liquors of a single individual, if they are property, when not needed for public purposes, and then only upon compensation. But if the legislature cannot deprive a single citizen of his property, can it, by a general law, deprive all the citizens of theirs? . . . Can it, by a general law, annihilate the entire property in liquors in the State? . . . We deny that the legislature can enlarge its powers over property or pursuits by declaring them nuisances, or by enacting a definition of a nuisance that will cover them. Whatever it has a right by the Constitution to prohibit or confiscate, it may thus deal with, without first declaring the matter a nuisance; and whatever it has not a right by the Constitution to prohibit and confiscate, it cannot thus deal with, even though it first declare it a nuisance. . . . The legislature has no more right to violate the Constitution, under the guise of a regulation of commerce, than by a statute literally in conflict with it."

Judge Stuart, who filed a dissenting opinion, agreed that "the agency feature and the several parts of the law relating to manufacture were unconstitutional." He did not believe that property rights are superior to the laws, nor that they are violated by a municipal regulation having for its object the peace, safety, and well-being of society. "It is conceded that the State has the power to regulate. . . . Prohibition itself is but one kind of regulation. "As to the substantial identity between regulation and prohibition, Judge Gookin was in accord with Judge Stuart; the right to regulate involved the right to prohibit. If the one was unconstitutional, so was the other also.[1]

This decision and the failure of the General Assembly

[1] As to this point, see the opinions delivered in the license cases by the justices of the Supreme Court of the United States in 5 Howard.

in 1857 to enact any law upon the subject left the State in a peculiar position from 1855 to 1859. The traffic was not forbidden by statute, neither could it be licensed, and it was not taxed. The law of nuisance was in many instances successfully put in operation for the suppression of dramshops here and there. The Supreme Court had at various times[1] declared disorderly tippling-houses to be nuisances and liable to suppression as such. It is said, by a prominent opponent of the liquor traffic in Indiana, himself a prohibitionist, that the traffic never gave so little offense nor did so little injury as during these four years of legislative silence respecting it.

The legislature, having been driven by the Supreme Court to abandon its preference, first for local option and then for total prohibition, adopted, in 1859, an "act to regulate and license" the sale of intoxicating liquors, under which licenses were granted by the boards of county commissioners. The applicant was required to publish notice of his intention at least twenty days in advance of the meeting of the board, and every inhabitant of the township was privileged to file a remonstrance with the board, in writing, assigning reasons therefor. This act was sustained.[2] It was so amended in 1861 as to authorize remonstrants in any township, who might feel themselves aggrieved by the county commissioners, to take an appeal to the Circuit Court or Court of Common Pleas of the county.

There was no further change in the law for a dozen years, when, in 1873, an act was passed, commonly known as "the Baxter law," which forbade the granting of license in any case where the applicant did not file a petition signed by a majority of the legal voters of the township,

[1] Notably in the case of Bepley *v.* The State, 4 Ind. 264, in which it was held that proof of disorderly conduct is unnecessary if the fact is proved of sale without license.

[2] Thomasson *v.* The State, 15 Ind. 449.

incorporated town, or ward (if in a city), as shown by the vote at the last previous election. All places where intoxicating liquor was sold in violation of the act were to be "shut up and abated as public nuisances." Every dram-shop was to be closed from nine o'clock at night until six o'clock in the morning. Liquor-sellers responsible in whole or part for the intoxication of any customer were liable to pay compensation for the care of such customer until sober. Relatives, employers, and other persons injured in person or property or means of support, on account of the intoxication or habitual intoxication of any person, were given the right to bring an action for damages against both the dealer and the owner of the premises occupied, including exemplary damages. Judgments for damages might be enforced without benefit from the valuation or appraisement laws.

The constitutionality of this act was attacked before the Supreme Court,[1] on the triple ground that it provided for a direct intervention of the people in the making and executing of a law; that the taking effect of the act was made to depend upon a popular choice; and that it was local and special in its operation. In other words, the objection to it relied upon for its overthrow was its local option feature. The Supreme Court, it will be remembered, had refused to allow a formal vote to be taken, in any minor political division of the State, upon the question of license or no license. But in the present instance the court held that "the petition of an applicant for a permit, aided by his co-petitioners, so far from being an exercise of legislative authority, really assumes that the law has been enacted and is already in force; otherwise there would be no authority for such application and petition." The signing of a petition was held to be not an administrative act. The act was held to be a general act, in force and operation in

[1] In the case of Groesch v. The State, 42 Ind. 547.

all parts of the State. It was therefore sustained. It was, however, repealed in 1875[1] by an act said to have been framed by the attorney of the liquor league.

This act, which was substantially a reënactment of a statute of 1859, retaining a few added provisions contained in the law of 1873, was subsequently embodied in the Revised Statutes of 1881, and is still in force. The power to grant license is vested in the county boards, after publication for twenty days, by the applicant, of his intention. The right of remonstrance, before vested in any "inhabitant," is by this act restricted to any "voter." There is no longer any right of appeal from the action of the county board. The color line, which formerly prevented any but white male inhabitants from engaging in the traffic, is abolished. The fee for a general license is $100, for a beer license $50, to be paid into the county school fund; cities or incorporated towns may charge $100 in addition. (The amount which cities and towns may lawfully charge has since been increased to $250.) The dealer gives a bond of $2,000 to secure the payment of both fines and civil damages. The term of license is one year. The sale of liquor to minors, to persons in a state of intoxication, and to habitual drunkards, is forbidden. The penalty for most violations of the act was by the original act a simple fine; but the sale of adulterated liquors, or by persons not licensed, was punishable also by imprisonment in the county jail not less than thirty days nor more than six months; and a second conviction for sale on Sunday or any holiday or day when an election is held involved forfeiture of license as a part of the judgment of the court. A disorderly house may be declared a nuisance, and the keeper of the same is liable to forfeit his license. Jurisdiction to try offenses, under the act, is in the justices of the peace,

[1] The section making the illegal sale of liquor a nuisance was held to be constitutional in McLaughlin *v.* The State, 45 Ind. 338.

who can, however, impose no penalty higher than a fine of $25; if the justice regards this as inadequate, he can require the offender to appear before the circuit court, which has also independent concurrent jurisdiction in liquor cases.

When, in 1881, the legislature adopted the Revised Statutes, the provision making a disorderly drinking-house a public nuisance was stricken out by the revisers, also the penalty of forfeiture of license.

The much-discussed Nicholson act had its origin in the needs of the city of Indianapolis. At the municipal election held in Indianapolis under its new (1891) charter, the Republican candidate for mayor was elected by a majority of about 3,000, upon a platform which pledged him to a strict enforcement of the laws, and upon his personal pledge to suppress gambling and the illicit sale of liquor. The Democratic majority at the last previous election had been about 3,000. Among the reasons for this change in public sentiment was the fact that under the Democratic administration the town had been "run wide open," and the citizens were not pleased with the results. The new mayor and his board of public safety selected for the office of superintendent of police a gentleman of known character and executive ability, in independent financial circumstances, of large business experience, who was heartily in sympathy with the purpose of the mayor. The suppression of open liquor-selling on Sundays and at the prohibited hours was complete. But at first the only practical method by which such sale could be stopped was the placing of a regular or special policeman, in uniform or in plain clothes, in every saloon known or suspected to be in the habit of violating the law; this was necessarily an expensive system. The primary purpose of the Nicholson bill was merely to render the enforcement of the prohibitory sections of the license law of 1875 more easy and certain, by removing, at all prohibited hours, every ob-

struction calculated to prevent the inspection of saloons from the street by the police and by the public.

This much-discussed law, which passed the Senate by a vote of thirty-nine to nine, and the House by seventy-five to twenty, and was signed by the governor March 11, 1895, was the response made by the General Assembly to an unusually large number of memorials and petitions in its favor, said to have been signed by 75,000 or 80,000 voters, and it probably represents the sentiment of a majority of the citizens of Indiana. It is entitled "An act to *better* regulate and restrict the sale," etc.

By its provisions the retailing of liquor must be done in a room on the ground floor or in a basement, fronting the street, and separated from any other business except the sale of cigars; no music nor amusement shall be permitted in the room, the whole of which must be visible from the highway; entering the saloon by any but the proprietor and his family is forbidden during the hours it is required to be closed, and permitting any person so to enter is *prima facie* evidence of the violation of the law. Upon proof of violation of the act, the court may, and for a third conviction must, revoke the dealer's license. Only one license can be given to one person, who must be the owner of the business. A majority of the voters in any township or ward may file a written remonstrance against granting a license to any applicant, and such a remonstrance makes void any license granted to that applicant at any time for ten years. Druggists are forbidden to sell, in quantities less than a quart, except by order of a physician.

The section relating to remonstrances, which is substantially borrowed from the act of 1832, is evidently designed to have the effect of engrafting into the law the principle of local option in the form in which[1] the Supreme Court of Indiana has decided it to be constitutional, but further

[1] In the case of Groesch *v.* The State, cited above.

modified to require a separate remonstrance against each applicant for license.

In considering the practical effect of the law, it is necessary to distinguish between the influence upon trade of the police regulations, especially as to the prohibition of games and of screens, and that of the remonstrance. The remonstrance can have no other effect than to close the saloons in many localities, where public opinion is adverse to them. The remonstrance is a more effective weapon than the requirement that the applicant shall secure the signatures to his petition of a majority of the voters.[1] The liquor interest asserts that many persons sign these remonstrances, not from conviction, but under constraint or persuasion, which is probably true. This is the feature of the Nicholson law to which the brewers and distillers — manufacturers — most strenuously object.

While the business interests of the manufacturer and those of the dealer are in a general way identical, there are nevertheless shades of difference between them. The objections of the dealer to the Nicholson law are (1) that it renders it practicable to lay an embargo on the sale of liquor upon Sundays, holidays, and after eleven o'clock at night; and (2) that it confines him to the single occupation of liquor-selling, and deprives him of the profit of shows and games, which retain customers in the saloon. A barkeeper explained to me that the proprietor of a saloon where he was employed used to throw dice for cigars with "the boys" — "anything to keep them here" — and had a room upstairs, where they could play cards; but now a man comes in, takes his drink, goes away, and they never see him again. He estimated the loss of income at eight or ten dollars a day — in this case a fatal falling off.

Another man, who now has a "temperance" saloon, where

[1] I am told that in several instances merchants refusing to sign have been threatened with loss of trade.

only "soft drinks" are for sale, said that he had to give up his liquor trade or his games, and that he found the games the more profitable of the two. No doubt, under the operation of a license law, the saloon business is greatly overdone, and many, who are encouraged to go into it by the expectation of profit, are doomed to become bankrupt, in spite of all they can do to prevent it.

The manufacturers are not in sympathy with the dealers in their desire to have games of chance played in dramshops. All that is lost in gaming is diverted from the pocket of the manufacturer to some other man's pocket. The greater part of this money is furnished by poor men, who cannot afford to indulge both propensities, and the net result is a diminution of the manufacturer's profits.[1]

[1] The Cincinnati *Commercial Gazette* published, August 10, 1895, a dispatch from Indianapolis containing a statement by Mr. Albert Lieber, president of the Indianapolis Brewing Company, vice-president of the State Brewers' Association, and chairman of the executive committee of that organization, in which the assertion was made that of 10,000 saloons in Indiana, 2,500 would be compelled to close in consequence of the passage of the Nicholson bill. These saloons, he said, consumed on an average two kegs of beer a day; the reduction in the consumption of beer, therefore, would be at least 1,500,000 kegs per annum. The strict enforcement of the requirement to close on certain days and at certain hours would decrease the annual consumption by another million kegs. The output of the breweries in Indiana was 440,000 barrels; an equal number of barrels is imported from the neighboring States. The price of beer per barrel is $6.50, making the annual expenditure for beer in round numbers $5,720,000. One fourth of this, he thought, or about $1,430,000, would be lost to the trade; the loss to the Indiana brewers would be $715,000. The loss in rent at $40 per month would be $1,200,000; in wages of saloon proprietors and employees, at $2 per day, $5,400,000; in revenue to the government, at $100 to the county, $250 to the city, and $50 to the United States, $1,000,000; total, $8,315,000. Of this amount, the school fund would lose $875,000. He estimated the average cost of saloon fixtures at $600, which would be rendered valueless — an indirect loss of another $1,500,000. There would be also an increase in the number of the unemployed. He did not touch the question of value of the grain converted into beer, and the effect upon the farmer. The distiller, he thought, would be comparatively unaffected. (The rivalry between malt and spirituous beverages is such that what the brewer loses the distiller may gain. The uniform effect of prohibition, under any guise and to any extent, is to increase the sale of whiskey, which is more portable, more easily concealed, and more available for illicit traffic.)

The legislature passed another bill, approved March 9, 1895, called the Moore bill, which is possibly even more objectionable to distillers than the Nicholson bill. It is an act amending the general municipal incorporation act, and it confers upon common councils the right to "restrain . . . all places where intoxicating liquors are kept for sale, to be used in and upon the premises." In restraining such places they may exclude sales from the suburban or residence portion of such city, and confine the places where sales may be made to the business portions of such city; they may direct the arrangement and construction of the doors, windows, and openings of the particular room in the building occupied, also the arrangement and construction of the bar kept therein, and the interior arrangement and construction of such room; they may direct what games may be carried on therein; and they may forbid the keeping or use of wine-rooms.

The police provision of the Nicholson bill directing the removal of partitions and screens has been enforced in some towns, in others not: the law is notably disregarded, for instance, in Terre Haute. In Indianapolis it has been well enforced, as I can testify from personal experience, so far as relates to saloons; but its enforcement has to some extent increased the illicit traffic in liquors carried on in drug-stores, especially during the prohibited days and hours. The detection of this traffic is, in the nature of the case, difficult. The partition which conceals the prescription case in the rear of the shop is a complete barrier to observation. It is usually inclosed by two openings, one on each side. A detective cannot go behind this case until his business is known; and if admitted, as he enters by one opening, the man who has had his drink passes out by the other, leaving no evidence behind him of the character of his purchase. In some drug-stores there is a private office or warehouse in the rear of the prescription

case. Sometimes a square closet is substituted for the ordinary form of prescription case; the druggist enters it by a closed door, pours out a dram, passes out, and the customer then takes his place, closing the door after him, when he is alone, so that there can be no witness of his actions. The fact that malt and spirituous liquors are illegally sold by druggists is notorious. The only way effectually to put a stop to such sale would be to station a policeman in every suspected pharmacy, which cannot legally be done, since they are not licensed.

It is fair to say that the enforcement of the Sunday law in Indianapolis is rendered more easy by the construction put upon it by the police, under which they do not interfere with the meetings of German societies, such as saengerbunds and turnvereins, if organized prior to the passage of the act, and therefore not with the purpose of evading it, so long as beer is there dispensed to their own members and not offered for sale to the public. Picnic parties, with beer, of which in the summer there are many, are not suppressed beyond the two-mile limit.[1] There is not in or about Indianapolis any large beer garden, properly so called.

The State has evidently before it a period of temperance agitation stretching through a long term of years, in which all the efforts that have been made, in other States, to curb the power of the liquor traffic will be put forth, with varying degrees of success, according to the strength of the two opposing forces in different localities, and the wisdom or folly of their respective positions and movements. The anti-saloon fight is led by the Good Citizens' League, organized in 1888, which is forming branch leagues everywhere.

[1] The new charter gives the city jurisdiction over the sale of liquor outside the city limits, within a distance of four miles; under this provision saloons within two miles from the boundary of Indianapolis are taxed; but the board of safety exercises police jurisdiction within the full legal limit of four miles — only, however, in special cases and by express order of the board.

THE MISSOURI LOCAL OPTION LAW.

A STUDY OF THE DRINK PROBLEM IN ST. LOUIS.

To understand the working of liquor laws in St. Louis, and especially to understand the failure to enforce the laws in certain respects, it is necessary to bear in mind the history of the city and the composition of its population.

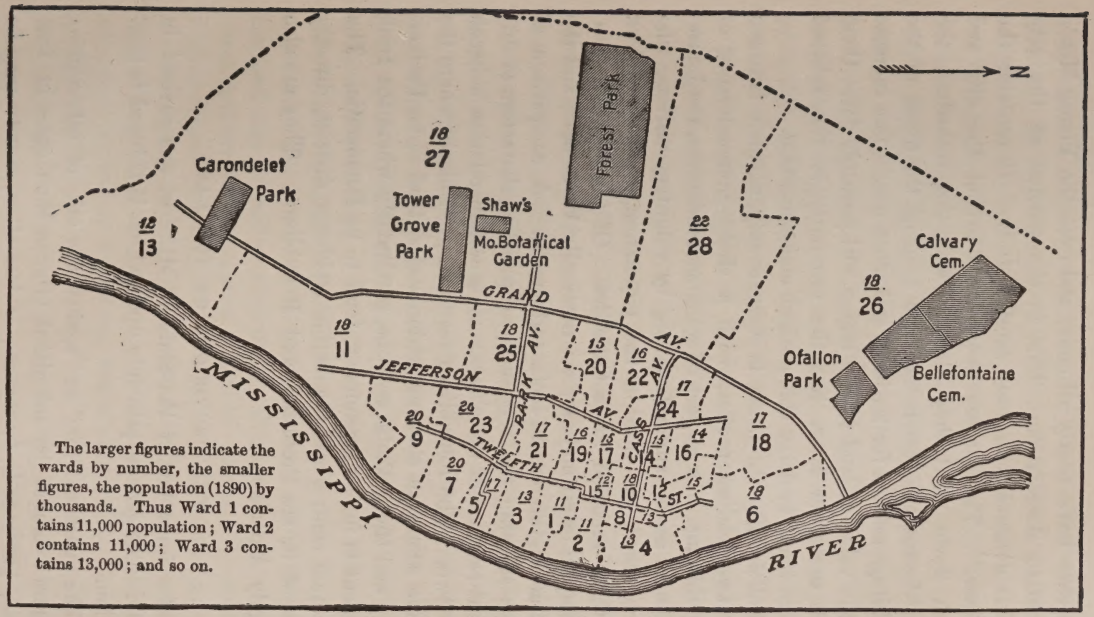
The original settlement, in 1764, was made by Frenchmen from New Orleans, who established here an Indian trading-post. The first town charter was granted in 1809 by the Court of Common Pleas for the District of St. Louis, under the authority of an act of the Territory of Louisiana in 1808. The early French influence is still felt in various ways. Three fourths of the present population is foreign-born or of immediate foreign parentage, principally German. The Germans, indeed, constitute nearly or quite one half the inhabitants. The architecture of the houses, the style of the front yards, and the attention to the culture of the grape, in many quarters, particularly in the northern and southern suburbs, clearly indicate the prevailing nationality. German habits have deeply impressed the life of the community, particularly in respect to Sunday observance and to the use of wine and beer. The first great influx of Germans was after the revolution of 1848, and many of these immigrants were freethinkers in religion. At present, Protestant, Catholic, and rationalistic Germany are all well represented. Indeed, the valley of the Mississippi is the chosen home of German Catholicism in America.

In one particular the composition of the population is

unique. St. Louis is the only city where the old southern element and the foreign element have been brought in large numbers face to face; and this circumstance accounts for much that is peculiar in the people and their institutions.

The distribution of population is shown on the accompanying ward map.

Roughly speaking, the city is divided into two parts by Grand Avenue (or the old city limits before the annexation of the outlying country in 1876), which is about three miles west of the river at its farthest point. All beyond this avenue is new; all between it and the river is regarded as "down town." Between Grand Avenue and the river are three distinct zones, about a mile each in width, separated from each other by Twelfth Street and Jefferson Avenue. Of these, the central zone is the most populous; that next the river contains almost as many inhabitants, and the outer zone somewhat less. Seven eighths of the population is found below Grand Avenue, and occupies less than one half the territory of the city. There is also a condensation of the population in the direction from north to south. The city is sixteen miles long; but nearly three fourths of the residents occupy a strip extending from east to west which is not more than three miles in width, and more than one half of them are found in a similar strip not more than two miles wide. There is a district lying east of Jefferson Avenue, and extending from Cass Avenue on the north to Park Avenue on the south, or a little less than two miles square, in which one third of the people live. In this district are most of the wholesale and retail trading-houses, the railway stations, the principal manufactories, the hotels, the government buildings, some of the best and some of the worst residences, and the bulk of the poverty and vice of the city. Out of it are moving nearly all who are able to afford to live elsewhere, and signs "For rent" are seen by the hundreds. The



WARD MAP OF ST. LOUIS

churches have nearly all gone, and even the Young Men's Christian Association. This is the portion of the city which demands the most careful study. It contains the "slums." These press upon the heart of the city and reach down until they almost touch the cathedral, the court-house, the best hotels, and some of the finest of the buildings erected for business and office use. The increase in the value of land in this region will probably drive them back sooner or later, but the proximity of the railroad tracks tends to delay this desired consummation.

Politically, St. Louis is very evenly divided between the two leading parties, with a slight preponderance of Republicans. In respect of religious tendencies, the house-to-house census annually taken, by voluntary visitors, who reach about one third of the population, shows one third of those reported to be Catholics. Of the non-Catholics perhaps a small majority are nominally Protestants and the rest are indifferent to sects and creeds. A comparison of maps showing the religious and political characters of different sections of the city reveals a certain relation between the two. The Republican sections, particularly where the native American element predominates, tend to be Protestant; and the Catholic sections, particularly where the Irish element is in the ascendency, tend to be Democratic. The business centre, and the better residence district, directly west of it, are Protestant and Republican. They are also largely American.

THE PROVISIONS OF THE LAW.

The liquor law of the State of Missouri was revised in 1891. The general principle upon which it is based is local option.

The question "for" or "against the sale of intoxicating liquors" cannot be submitted oftener than once in four years, but once in four years, or less often, a vote may be

ordered upon petition of one tenth of the qualified electors. Electors in any incorporated town of 2,500 inhabitants or more may not vote for or against the sale of liquor in the county at large. The question of sale in the towns is distinct from that of sale in the rural districts.

The sale of liquors, in quantities less than three gallons, without license, is forbidden in counties and towns which have voted against license, under penalty of a fine of $300 to $1,000, or by imprisonment from six to twelve months, or both; but in counties which have voted in favor of license, the penalty is a simple fine of $40 to $200.

Licenses are granted by the county court; but in cities having a population of 200,000 or more (St. Louis being the one such city), by a special officer known as an excise commissioner.

The applicant for a license must be a law-abiding, assessed tax-paying male citizen above twenty-one years of age. With his written application he must file a petition; this petition, if in a city containing 2,000 inhabitants or more, must be signed by a majority of the assessed tax-paying citizens owning property in the block or square in which the dramshop is to be kept; if in a city of less than 2,000 inhabitants, or in any incorporated town or municipal township, it must be signed by a majority of the assessed tax-paying citizens, both in the block or square and also in the town or township. (The property assessed may be real or personal.) The court or the excise commissioner cannot grant a license unless the petition filed is signed by a majority as required. If it is so signed, he may grant or withhold it at his discretion — except when the petition is signed by two thirds of the tax-payers; then he has no discretion, but must grant it.

The petition is in force for one year from the date of the granting of the first license thereon, and no longer; and no license can be in force longer than the petition

upon which it is granted. Any license which may be granted on any other basis is void.

The applicant must file a bond, in the sum of $2,000, with two resident sureties, to be approved by the court, that he will keep an orderly house, and that he will not sell or give liquor to minors without the written consent of their parents or guardians, and that he will pay all fines and forfeitures adjudged against him on account of any violation of the dramshop act.

The price of a license is a tax, payable every six months, of not less than $50 nor more than $200 for state purposes, and not less than $250 nor more than $400 for county purposes. The court which grants the license determines the amount. Dramshop-keepers are further required to pay an *ad valorem* tax as merchants, once in six months, upon the full amount of liquors received by them during the six months previous.

Two thirds of the revenue derived by counties from this source is set apart for building roads or (in the smaller counties) for the payment of municipal indebtedness.

The county collector is charged with the amount of the tax levied upon each license. He must collect the same without delay; and until the applicant presents the collector's receipt for the amount specified, in full, the license cannot issue.

It is made the duty of the court to revoke the license of any dramshop-keeper shown, to its satisfaction, to have been guilty of keeping a disorderly house. The court is forbidden to issue a license to any person whose license has once been revoked, or who has ever been convicted of violating any provision of the dramshop act.

The Revised Ordinances of the city of St. Louis are in substantial accord with the statutes, but contain some additional provisions. On the first Monday of every month a list of the licenses granted during the month

preceding must be furnished to the comptroller. On the same day the police must report to the chief of police all dramshops open in their respective districts and whether they are kept in an orderly manner. These reports must be by the chief transmitted to the collector (excise commissioner).

No immoral or obscene paintings or pictures are allowed to be exhibited in any saloon. No lewd woman or woman reputed to be immoral can be employed in any saloon as a bartender or carrier of beer or any other article, either by day or night, or to sing or dance in a lewd or indecent manner. The opening of any saloon within five hundred feet of either of the five principal city parks is forbidden. No license can be granted for any dramshop in any house of ill-fame. The establishment of such a house in any building where there is a dramshop renders the license already granted null and void.

Any three reputable property owners may prefer to the mayor a sworn complaint of disorderly conduct in any saloon. The mayor must at once cite the dramshop-keeper complained of to appear before him. If satisfied of the truth of the statements made, he must revoke his license and order his prosecution by the attorney of the police court. No license may be assigned or transferred.

It should be added that the criminal code forbids the adulteration of liquors, and their sale within a mile of any camp or field meeting for religious worship.

EVASIONS AND BREACHES OF THE LAW.

The question of the observance of the dramshop act naturally divides itself into two parts: first, as to procuring license, and, second, as to compliance with the conditions upon which it is granted.

The only valid signatures to a petition for a license are those of assessed tax-payers; that is, owners of real estate

or residents owning personal property upon the block in which the dramshop is to be situated. Minors cannot sign, but their guardians must sign for them. The latest annual assessment shows the names of the tax-payers in each block, and unless a majority of their names is attached to a petition it has no legal value.

Obviously a strict construction of the statute would prevent the issue of a license to keep a saloon where the property pays no tax, for example, in a public park. Yet there is a licensed dramshop in the principal park — Forest Park. Its issue was fought upon another ground; namely, that section 1433 of the Revised City Ordinances provides that "no saloon shall be established, opened, or located in any building or on any lot of ground within 500 feet of Forest Park." But the council authorized the issue, holding that a saloon inside a park is not within 500 feet of it. But in another instance, — viz., the Exposition Building, which stands on ground belonging to the city, a petition was signed by some of the stockholders, the city attorney gave an opinion that upon its face the petition was regular, and the license was issued.

In the case of private property, the theory of the law is that the petition shall be compared with the city assessment rolls, but the practice appears to have been to assume that the petition was regular if it was not opposed. Where opposition is anticipated, the steps to secure signers are as quietly taken as possible; and if the license is once granted, the difficulty of annulling it is greater than of preventing its issue. Where violent and persistent opposition has been made to the establishment of a saloon, the means taken to overcome it have sometimes been ingenious. The owners of a well-known beer garden were unable for a long time to secure the requisite number of names of tax-payers, and kept open without license. When at last the municipal authorities were pressed to close this place, the

proprietors opened a private alley in the rear of the property, and erected a row of tenements, which were rented to persons who would sign their petition. By this means they succeeded in overcoming the majority against them. This was a popular resort opened many years ago, before the enactment of the local option law. But expedients of more doubtful propriety, or whose illegality is not a matter of reasonable doubt, have been used; and through the complicity of the collector with the liquor interest dramshops have been forced upon localities which were bitterly opposed to them. After exhausting every other means of defeating a remonstrance signed by a majority of the assessed tax-payers upon certain blocks, a lot belonging to the applicant for license or to some friend has been subdivided, and small parcels — too small to be of any real use or value, such as a single front foot — have been deeded to men of straw or to members of the firm or family, to enable them to add their names to the petition. These lots are known as "the Lilliputian lots."

In 1891 and 1892 the conduct of a collector whose arbitrary methods won him the nickname of "The Czar" was investigated by the City Council, and two unsuccessful attempts made to have the grand jury indict him. He admitted that he did not require renewal petitions in the German quarters of the city, north or south of the centre; he said that they did not know what it is to object to a saloon, and would not know a remonstrance from the man in the moon. One of the chief grounds of the investigation was the fact that, while the city collector issued about 1,800 licenses, the number of paid liquor licenses reported by the United States revenue collector was 2,600. The collector's explanation was that the United States collects from houses of prostitution, drug-stores, clubs, and groceries, which do not take out dramshop licenses. After the investigation an effort was made to pass a municipal ordi

nance restricting the power of the collector to grant licenses in opposition to the will of the assessed tax-payers and compelling him to exercise more diligence in collecting the tax imposed upon saloon-keepers; but it was defeated. The upshot of all this crimination and struggle was that the collector was reëlected by an increased majority; he outran the rest of his ticket.

The fight was not without effect, however, upon the state legislature. The victorious collector was and is a Republican in politics. The legislature of Missouri is Democratic. The General Assembly legislated him out of office by an act approved March 17, 1893, by which the governor is authorized to appoint in St. Louis a commissioner with exclusive authority to grant dramshop licenses. This commissioner is paid by fees, and out of the fees received by him he must meet all his office expenses. None of the provisions of the dramshop act is modified by this act. The excise commissioner has power to revoke any license issued by him, if the recipient violates any of the provisions of the dramshop act.

The new commissioner was appointed on the 21st of June, 1893. The first year's collections by him (omitting fees) showed a gain of $185,295; but of this amount, $102,569 is owing to a change in the state tax, which was $50 a year for each license, but is now $100. The number of licensed saloons under the collector, in 1891–92, was 1,870; under the excise commissioner, in 1893–94, it was 2,051.

The appointment of a special commissioner by the governor, with power to grant and revoke liquor licenses, tends to create a closer political connection between the state administration and the liquor traffic than existed before.

As to the enforcement of the few police restrictions upon the sale of liquor in this city, the simple fact is that little

if any effort is made to enforce them, and they are not enforced. There is not a saloon in St. Louis which is closed on Sunday, except at the will of the proprietor. The prohibition to sell to minors without the written consent of their parents is a dead letter. There is an immense "can" trade carried on by the saloons; and there is no part of the city, and no hour of the day or evening, where little children, mostly girls, may not be seen going to and from dramshops with pails of beer. Some of them are scarcely more than babes. And many saloons sell to young boys, across the counter, by the drink.

The prohibition against games and other amusements in dramshops is flagrantly disregarded. The great majority of saloons in St. Louis are furnished with round or square tables and armchairs for the convenience of their patrons. One who passes by can often see card-playing through the open door. Many of them have also billiard and pool tables, in direct contravention of the statute. Some have pianos or other musical instruments. There are various descriptions of saloons; *e. g.* simple bars, bars attached to restaurants or eating-places, bars connected with pool or billiard rooms, beer gardens, and concert saloons. There are several sorts of beer gardens. Some of them are merely back yards in the rear of saloons, on the same lot; others are large, and approximate the character of private parks. The best of them are family resorts, where all the proprieties of life are as strictly observed as in a home; others are less reputable. Dancing is of course common at all such places, and at some of them it is unrestrained. Many saloons have a separate "ladies' entrance," and not infrequently private wine-rooms. But it is difficult to say whether these or the so-called free theatres are the most objectionable, from a moral point of view. The latter are entered through the bar, upon payment of the price of a drink, which need not be more than five cents, and a

drink is given for the money. At the farther end of the room is a cheap stage. The ground floor is occupied by chairs, sometimes by chairs and tables. Men only are admitted. Stairways connect the lower floor with galleries above, divided into stalls, and with curtains in front, where the female singers and dancers employed by the proprietor meet and drink with such men and boys as choose to go up there. They are a sort of public green-room, and the conduct and conversation are what might be expected. If there are no galleries, a place is ruled off and partially screened at one side of the room. The performance upon the stage is usually cheap, stupid, and vulgar. The state law declares that a dramshop-keeper shall not permit any wrestling in his dramshop, but in front of a popular saloon a placard was recently displayed announcing a wrestling match between a man and a woman. A city ordinance makes it a misdemeanor for any dramshop-keeper to employ lewd women as singers and dancers; but there can be no question as to the character of many of the low variety actresses upon these saloon stages. There is, of course, no official censorship of the stage, and the police dislike to pronounce judgment upon the indecency of a performance which the public sees fit to patronize and encourage. Several years ago, the Woman's Christian Temperance Union undertook to suppress six concert saloons, and brought them before the grand jury. An indictment was found, but was quashed, because it did not allege that at certain times the women named did sing and dance in said dramshop, but that they were employed for that purpose. But it is questioned whether any indictment can be framed which will hold, so long as the women are employed under cover of a theatrical license. The police express the belief that conviction is impossible.

It would seem, however, that the excise commissioner

might, if so disposed, in the exercise of the discretionary power, refuse a license to any keeper of a concert saloon or dramshop with private wine-rooms, liable to be used, if not designed to be used, as places of immorality.

INFLUENCE OF THE BREWING INTERESTS.

It remains to inquire into the reasons for the non-enforcement of the law. In general the public sentiment of the community does not demand and would not sustain its enforcement. A glance at a map showing the blocks upon which there are licensed dramshops gives a clew to public opinion.

Large tracts of land within the city limits are in cultivation as farms, and much which has been platted has not yet been built upon. Besides, there are many blocks upon which there are public buildings, institutions, manufactories, potteries, brick and lumber yards, stone quarries, where there is no place for a saloon. Of the territory covered by the corporation one half is still in an almost purely rural state. Of the other half there is very little free from the immediate vicinity of the saloon, except in the new residence district west of Grand Avenue, where it is kept out by the only effectual device yet invented; namely, a clause in the conveyance forbidding the use of the property for certain purposes, of which this is one.

The multiplication of dramshops is largely due to the business rivalry between breweries, of which St. Louis has twenty-five or thirty, some of them among the largest in the United States, if not in the world. Three fourths at least of the saloons are indirectly owned and operated by the breweries, which advance the license tax and collect it in installments, by charging eight dollars instead of six dollars a barrel for beer. At this rate, it is necessary to sell 300 barrels a year to make good the advance, not counting interest; and the minimum consumption of beer in the

city would have to be 600,000 barrels, costing $3,600,000 at wholesale. But this estimate is much too low. The rate of the *ad valorem* tax paid by dramshop-keepers as merchants is 25 cents upon the $100. The amount, therefore, which they admit having expended for liquors of all sorts is nearly $4,000,000. Doubtless it is greatly understated, and the greater part of it is for beer, which has with the mass of the people largely replaced the stronger distilled liquors. Before the Brewers' Association was organized the competition was unregulated, and non-paying saloons were maintained in many localities as the result of rivalry between manufacturers, neither of whom would abandon a disputed block or corner to the other.

But the map furnishes an ocular demonstration of the fact that public sentiment in St. Louis is overwhelmingly in favor of the retail liquor trade. On every one of the shaded blocks a vote has practically been taken and decided in favor of the traffic. A vote by petition, confined to tax-payers, is theoretically as fair an expression of opinion as it is possible to get. It is the opinion represented upon this map which elects the municipal officers, including the officers of the courts; and from the community so imbued with liberal views upon the liquor question must come the jurors who pass upon alleged violations of the law. The chance for the passage of a prohibitory law, or for its enforcement if enacted, does not seem, under these conditions, to be very promising. An attempt was made, in 1887, to pass a joint resolution in the Missouri legislature requiring the submission to a popular vote of a prohibitory amendment to the state Constitution. The resolution was adopted in the House by a vote of 76 to 53; but it was defeated in the Senate, or at least indefinitely postponed, by 22 to 11.

The magnitude of the financial interests involved in the issue between the advocates and opponents of prohibitory

The densely settled portion of St. Louis, showing the blocks (in checked lines) on which liquor saloons are situated

legislation is shown in the statistics of the distilling and brewing industries. The latest annual report of the Merchants' Exchange contains the following paragraph: —

"There are now more than twenty-five breweries in the city, which find employment for upwards of 3,700 people, exclusive of travelers, agents, and clerical help, which in the aggregate is probably as large as the actual brewing force, whose yearly earnings in wages exceed $2,500,000. The output exceeds 60,000,000 gallons per annum, just twice as much as the output for 1881, and more than four times as large as that for 1877."

The annual product of the breweries is about 2,000,000 barrels, of which approximately one half is shipped away and the rest consumed at home. There are also two distilleries in St. Louis, which in 1893 manufactured 1,763,350 gallons. The trade statistics show receipts by river and rail of 113,116, and shipments of 122,065, barrels of whiskey and high wines. These figures would indicate that the home consumption, for all purposes, of whiskeys and high wines approximates one and a half million gallons. It is probably not far from the truth to say that in St. Louis, for every gallon of whiskey drunk, the people drink a barrel of beer.

The estimate of the excise commissioner is that the fixed charges for taxes, rent, wages, etc., are, on an average, $200 per month for each of 2,000 saloons, making in the aggregate $4,800,000 a year, to which he adds $4,200,000 for the cost of liquors. Nine millions per annum is in his judgment the lowest estimate of the amount paid out every year in the saloons. Assuming it to be ten millions, and that the present population is 600,000, this would be equivalent to an expenditure per capita of less than five cents per day. An estimate made in this fashion is only approximate. There could on this basis be very little actual drunkenness. The police statistics of arrests for

public intoxication confirm this inference. The number of arrests in the entire city for the year ending in April, 1894, was 3,925, of whom 925 were women. The number the same year, for all offenses, was 25,030; so that the arrests for drunkenness did not exceed one sixth of the whole. Ten years ago, with less than half the present population, the arrests for public intoxication were 4,914, of whom 963 were women. The total arrests were 19,330, so that the arrests for drunkenness were one fourth of the whole. There has been an actual diminution in the amount of public intoxication, and relatively to the population it has diminished by one half. The improvement among the men is greater than among the women. At the present time, with 600,000 inhabitants, the number arrested for drunkenness daily averages about eight men and three women; and it must be remembered that many of these are habitual drunkards, who figure several times in the returns of a single year. The number of arrests annually for public intoxication averages not more than two to each licensed saloon. But the value of the statistical method in an inquiry into the extent and the results of intemperance is at best slight.

The Brewers' Association is a very considerable power in municipal and state politics. It declares, however, that it has never made a contribution to the campaign fund of any political party, and that such measures as it may have adopted, to prevent the nomination of officers by either party who would make use of their official position to injure the brewing business, differ in no respect from similar measures employed by other great corporations whose interests are threatened by attacks made upon them, whether in good faith or for purposes of blackmail. In fairness to this association it should be said that it apparently believes itself to be a public benefactor by fighting the battle of fermented against distilled liquors, which is in

its judgment a great contribution to the cause of temperance. This is no doubt an interested opinion, but it is not for that reason any less sincere. On the other hand, there can be no doubt but politicians dread the opposition of the liquor interest, and are often subservient to it. Its influence, upon the whole, is not favorable to good government.

Both the chief of police and the excise commissioner, when asked why a more vigorous enforcement of the law is not attempted by them, replied — and without collusion, being separately interrogated — that the chance of conviction in the courts was too remote to make it worth while. The police is legally the guardian of public order rather than of public morals. The general good order in St. Louis deserves special mention, even in the worst localities, by night as well as by day, though the force is admittedly too small, and more than half the territory is patrolled by mounted men only. Nor is there any general or apparently well-founded suspicion of dishonesty on the part of the police. But the demand for the enforcement of such statutes and ordinances as are directed against immorality and vice, which one would expect to hear from the churches, or from women, or from good citizens irrespective of sex or creed or party, is not heard.

Although the law forbids licensing the sale of wine or beer in houses of prostitution, these houses take out a United States liquor license. The police say that they do not keep liquors, but order them from the nearest saloon, and divide the exorbitant profit made upon them with the dramshops. It is true that wires are run from many of these houses into saloons, but they are chiefly used for ordering mixed drinks. There seems to be no doubt that, with few or no exceptions, every house of ill-fame in St. Louis sells beer, and many of them sell champagne. The number of licenses issued by the excise commissioner annually is

about 2,000; but the United States commissioner of internal revenue, in reply to an inquiry addressed to him, states that from July 1, 1893, to June 30, 1894, there were issued from his office, for retail liquor-dealers, 3,510 licenses, and for retail malt liquor dealers 103 licenses, "all of them within the limits of the city of St. Louis." Here is a fact which ought to enlist public interest, and which demands explanation.

In Missouri, and especially in St. Louis, the expediency if not the right of prohibition is denied by an overwhelming majority of the voters. In St. Louis the right to vote (by petition, though not at the polls) is conceded to all women who are tax-payers and denied to all men who are not. The sexes are in this regard upon an absolute level before the law. Yet the map shows that the expression of sentiment on the part of the community is not materially modified by this concession.

But the attempt to control the drink habit by legislation which falls short of prohibition has proved itself to be but a very partial success. This is due possibly to laxity in administration of the law. It would be a mistake to assert, however, that the law accomplishes nothing. It places formidable barriers in the way of the unrestricted multiplication of tippling-houses; it insures a certain degree of responsibility for their actions on the part of all engaged in the liquor traffic; it puts the business under police surveillance and control; and it has the effect of preserving good order, for the most part, even in the lowest class of saloons.

THE OPERATION OF THE NEW YORK LIQUOR TAX LAW.

EARLIER LEGISLATION.

FROM colonial days until 1896, local self-government was the basic principle in New York liquor legislation. The State prescribed the general regulations to govern the traffic, but the right to grant licenses, expend excise moneys, and supervise the sale of intoxicants belonged to the locality.

Of almost equal antiquity with the principle of local self-government were the other general principles underlying the liquor legislation for more than two hundred years. The act of 1788, "to lay a duty of excise on strong waters and for the better regulation of inns and taverns," is said to have "laid the foundation of excise legislation in the *State* of New York," yet it in no wise departed from the time-honored theories and methods obtaining during the colonial period, albeit the prohibitive and restrictive features had become more severe.

Of the subsequent legislation prior to 1885, it is equally true that it embodied nothing essentially new. The many different acts passed reveal only the same regulative and restrictive devices in slightly altered forms. The abortive attempt made in 1845 to introduce local option is the solitary exception. Nearly all acts aimed specifically to suppress certain abuses against which reformers are still contending.

Once only, and then for a very brief period, the prevailing policy of dealing with the liquor question was

completely discarded. The act providing for local option, which never became operative yet gave rise later to the pleasant fiction that a local option statute existed, was but the forerunner of a more drastic measure, a full-fledged prohibition law, passed in 1855 and bearing the title, "An act for the prevention of intemperance, pauperism, and crime." Being one of the first fruits of the original prohibition movement, and therefore unsupported by a deep-seated public sentiment, the act remained on the statute-book for two years only. The old excise system replaced it, having been recast and fortified by some additions of minor importance.

From 1857 to 1895, no less than one hundred and twenty-six acts dealing in some manner with the excise question were passed by the legislature. Seventy were of a local character, and of these again about twenty related exclusively to the city of New York. The distribution of excise moneys and the granting of licenses were the two subjects given the greatest attention. A large share of the revenue from the traffic was from time to time appropriated for local charitable and educational purposes, a policy which, in more than one instance, helped to silence the clamor for further restrictive law.

When, finally, pursuant to an act of 1892, the laws regulating the liquor traffic were revised and consolidated, the resulting fabric was a patchwork, not without some serious omissions, of acts passed or amended at intervals during a long period of years, and numerous enough to confuse the ordinary mind, the central features of which, nevertheless, had on the whole remained unchanged. A summary of the law of 1892, which was superseded by the present Liquor Tax Law, is given below.

THE LAW OF 1892.

EXCISE COMMISSIONERS.

In towns, the members of boards of excise were elected by separate ballot for terms of one, two, and three years respectively, no town official or person interested in the sale of liquor being eligible. In cities, the excise commissioners were appointed by the mayors, unless otherwise provided in the city charter. Full records of the transactions of the boards were to be kept open to public inspection.

LICENSES.

A license for the term of one year might be granted only to a person over twenty-one years of age, a citizen of the United States and a resident of the State, of good moral character, who was approved by the board and beneficially interested in the business to be licensed. Six classes of licenses were in force, with fixed minimum and maximum fees: —

1. Hotel license, granted to keepers of hotels or taverns having at least ten bedrooms if in a city, or three if in a town: fee in cities, $30 to $500; in towns, $30 to $150.

2. Saloon liquor license, authorizing the sale of liquors of all kinds for consumption on or off the premises: fee in cities, $30 to $250; in towns, $30 to $150.

3. Saloon ale or beer license: fee in cities, $30 to $75; in towns, $20 to $60.

4. Storekeepers' license, to sell only for consumption off the premises: fee in cities, $30 to $250; in towns, $30 to $150.

5. Druggists' license, for sale of liquors only on a physician's written prescription: fee, $20.

6. An additional license, for sale of liquor between the hours of one and five A. M., might be granted to any person holding a license to sell for consumption on the pre-

mises, if it should "appear that public necessity requires that sale be permitted between these hours:" fee, $30 to $150.

Excise commissioners were simply authorized to issue licenses when satisfied that the applicant was a proper person to engage in the traffic, and not required to do so. When, however, a board denied an application for a hotel license, it was obligatory to file a statement of its reasons for so doing. If a court found that an application had been rejected arbitrarily, it might command the board to issue the license. Transfer and sale of licenses were permitted.

The following causes effected the immediate revocation of licenses: (1) A conviction of a felony during the term of a license; (2) a conviction for selling adulterated liquors; (3) a conviction of a storekeeper or druggist for selling for consumption on the premises; (4) a conviction of a holder of an ale and beer license for having sold spirituous liquors. A board of excise might revoke a license for a number of causes, but a licensee always had the right to a writ of certiorari to review the action of the board.

Sales were prohibited on Sundays and on week-days between the hours of 1 and 5 A. M., on days of elections or town meetings, and within quarter of a mile of a voting place while the polls were open. It was further prohibited to sell to any child under sixteen, intoxicated persons, paupers, habitual drunkards, and to any one to whom the licensee had been forbidden to sell by a written notice from parent, guardian, husband, wife, or child over sixteen, or magistrate, or overseer of the poor. Hotel-keepers were permitted to sell liquor to guests with meals, but not in the bar-room. No license was required for sales in quantities of five gallons or more for consumption off the premises.

The excise law of 1892 (known also as the "Tammany

law") is silent on the subject of penalties. Violations were consequently dealt with as misdemeanors under the penal code and fines of varying amounts imposed. Complaints by the residents of any city or town to the excise board were to be acted on within thirty days. For willful neglect to do so, a commissioner forfeited his office, became guilty of a misdemeanor, and liable to a fine not exceeding $250.

LOCAL OPTION.

Section forty-one of the law of 1892 provided as follows: "Nothing herein except section thirty-one (relating to illegal sales) shall in any manner apply to any town where the majority of voters have voted for, or shall hereafter vote for, local prohibition." Although every general act passed since 1870 embodied a paragraph couched in the above terms, the law prescribed no method of procedure. The assumption of the existence of an act explicitly providing for a vote on local prohibition lacked all foundation in fact. The system of local option developed under the old laws depended entirely on the character and opinions of the men chosen as excise commissioners in the towns. If a majority of a board declared themselves opposed to granting licenses, or were elected because of their opposition, no licenses were issued; and it was deemed to be the will of the people that local prohibition should prevail.

THE LIQUOR TRAFFIC UNDER THE LICENSE LAW.

It is characteristic of the legislation previous to 1896 that many of the acts prescribed or circumscribed the duties of excise boards. One may safely say that a majority of the measures intended to effect some kind of reform took the excise boards as a starting-point. Remedies for their failings and safeguards against their further shortcomings were sought in additional legislation. The fact that the actions of a local board of excise are ordinarily

determined by the public sentiment behind it, appears to have carried small weight. But the general laws as well as the numerous local acts indicate unmistakably a widespread conviction that the administration of the boards and the state of the liquor traffic under the prevailing excise system left much to be desired. There was certainly no lack of facts to justify such a conviction.

In 1895 the State of New York contained nine hundred and sixty-four boards of excise, representing thirty-seven cities, nine hundred and twenty-five towns, and two villages. To the two thousand eight hundred and ninety-two officials constituting the boards must be added nine hundred and sixty-four attorneys, a still larger number of clerks, and for some cities a multitude of other subordinates. Whether appointed or elected, the commissioners usually obtained office through political preferment, and were, therefore, under obligations to serve party ends. While the boards may, on the whole, be said to have carried out the will, whether for good or evil, of the majority who put them in office, it is undeniable that they often failed to consult the temperance interests of their respective communities. To charge such failure solely to bad faith or corruption is to forget the conditions under which the excise boards worked, and the nature of the law to be administered. The law prescribed the duties of the boards; but men were called upon to perform them in communities differing profoundly in respect to state of advancement, habits, elements of population, and resulting views on excise matters. Furthermore, the law was so elastic as to allow either a lenient or a strict policy. In cities, the excise boards could limit or extend the number of licenses at will and classify them somewhat arbitrarily; in towns, they might lawfully consider it a duty not to issue any; the margin between the minimum and maximum fees left a liberal choice; and in the general

supervision of the traffic they had power to befriend or oppose its interests in a substantial manner while keeping pretty well within the letter of the law.

As the natural outcome of these conditions, as well as of the infinite variety of opinions and prejudices within the local boards, the laws were often peculiarly administered, sometimes not at all, and never to the satisfaction of both the trade and the temperance advocates. It has been officially stated that in 1895 eleven towns were without excise boards, yet permitted the sale of intoxicants to go on. In some towns, the board accepted much less than the statutory fees; in others, as it appears from their records, fees varying greatly in amount were exacted from dealers situated precisely alike; and in still others it was tacitly understood that no fees need be paid. A frequent practice was to charge a full annual fee for a license to run less than a year. With some boards, the applicant's political creed and party services would weigh more than his obedience to the law and compliance with its requirements. It is not demonstrable that the elected boards were superior to the appointed. On the other hand, the most glaring irregularities have been officially charged against elective boards in small cities and towns, such, for instance, as issuing licenses on the installment plan, or giving credit for the whole amount due in fees. In the chief cities the boards, whatever their shortcomings, observed at least the formalities of the law.

An obvious evil was the multiplication of saloons. In many sections of the State, their number had for years exceeded all "legitimate demands" in the most liberal sense of this term. And, contrary to popular notions, the increase of drinking places was far from being a feature peculiar to the great cities of New York and Brooklyn. In the month of April, 1887, there were more inhabitants to each liquor license in these two cities than in twenty

other cities and thirteen towns. This excessive multiplication of drink-shops had been going on for years, and was made possible only by the prevailing custom of fixing the license fee at the lowest legal rate. The producers of liquors had increased much in the same ratio as the retailers, and were competing fiercely for trade. A man without capital, provided he was of the right sort, found little difficulty in obtaining aid to pay the low fee and set up as a saloon-keeper.

The increase of the saloons in proportion to population seems to have attained its maximum about 1887. The changes observable since that date were in a few instances due to the direct intervention of excise boards. In general, the traffic appears to have reached a point beyond which it could not expand; and a natural reaction set in slowly but perceptibly. The following table shows the proportion of population to licenses for a number of cities and towns in 1887, and again in 1895–96. It must be noted that the available statistics do not afford a perfectly accurate comparison. For the year 1887 it has been necessary to take the number of licenses in force in a given month, but in 1895–6 the total number of licenses issued, which is always considerably in excess of the number in force at any one time. The increase of inhabitants to each license was, therefore, greater than is indicated by the table.

CITIES.

Inhabitants to each license.

	1887	1895–6		1887	1895–6
Buffalo	72	115	Lockport	110	153
Utica	78	102	Rochester	112	216
Long Island City	85	100	Rome	113	128
Syracuse	86	130	Kingston	114	117
Hudson	87	86	Cohoes	117	111
Dunkirk	94	137	Oswego	124	144
Troy	98	117	Binghamton	128	206
Albany	100	130	Olean	50	132
Newburgh	101	146	Auburn	137	161
Elmira	104	109	New York	138	202
Yonkers	105	151	Brooklyn	188	203
Schenectady	106	142			

TOWNS.

Inhabitants to each license.

	1887	1895-6		1887	1895-6
Saratoga Springs	56	50	Coxsackie	118	57
*Fonda	67		Lyons	119	93
Corning	88	149	*Jamaica	122	
Batavia	95	93	Hornellsville	134	138
Geneva	97	117	Saugerties	135	58
Catskill	102	84	Cazenovia	137	137
*Green Island	104		Ithaca	137	249

* Number of licenses for 1895-96 not known.

The table makes it plain that comparatively few excise boards used their discretionary power in issuing licenses so as to diminish the number of saloons. A notable stand in this respect was taken by the New York city board in 1887 when it adopted the locally famous "surrender" rule: "The board of excise will not permit any increase in the number of saloons beyond the number now licensed; and a license will not be issued for a new place except on the closing of an existing place and the surrender of the license thereof." With a reasonable discrimination in favor of hotels and restaurants serving food with drinks, this rule continued in force; and the last board expanded it by demanding the surrender of two old licenses before issuing one for a new place, thus adding materially to the fee. During the nine years following, not a single new saloon was added to the existing ones, notwithstanding the increase in population. Yet whatever good a board achieved seems to have been accomplished under a great counter-pressure; for when a particularly obnoxious rascal had been denied a license, this performance of an obvious duty was considered sufficient cause for public congratulation But, besides being overdone, the liquor traffic had fallen into particularly evil ways. The blame has commonly been laid at the door of the excise boards, the commissioners being convenient scapegoats. No doubt the boards were in some, perhaps in numerous, instances much tainted by cor-

ruption, and given to practices more or less objectionable. Their very existence served to bring the liquor question to the fore in politics, and called for united action on the part of the trade in city and town elections. But the boards could not rise above their source of power. At bottom the trouble lay with the people, not with their servants, and with the social conditions that made possible the prevailing sort of political master. Furthermore, the law was inadequate in important respects. It did not provide a self-operative check on the increase of saloons; it conferred unusual discretionary power where such power was most likely to be abused; and it failed to recognize the irrepressible demands in the large centres. The most unpopular feature in the law was the provision against Sunday selling, and it was the one most flagrantly violated, not only in New York city, but more or less in nearly all cities and many towns. It is a fair question how far this intensely disliked clause relative to Sunday selling sufficed to bring the whole law into contempt, and thus became the innocent source of much of the corruption and other evils attendant upon its non-enforcement. One may well believe this clause to have been fateful. At any rate it is significant that, when through extraordinary exertions Sunday sales were stopped in New York city for a time, the general subjection of the liquor dealers to the law was considered achieved.

There is no need of enlarging on the familiar facts concerning the evils that had crept in under the old régime, — the blackmailing of the trade, the dives that flourished, the prevalence of drunkenness, and so forth. In varying degrees the same evils had sprung up elsewhere. The points to be emphasized are, that liquor laws were held in contempt and not enforced, and that, when the spasmodic efforts at enforcement were attended by some apparent success, the punitive provisions of the law remained largely inoperative. Magistrates were singularly kind to offenders,

excise cases were pigeon-holed by the hundreds in the offices of district attorneys, and juries refused to convict.

The operation of the system of local option which developed under the old excise laws deserves brief mention. The available data are from 1894, and cover about 90 per cent. of all the towns in the State. Of the 847 towns accounted for, 291 elected excise boards with the tacit understanding that they should refuse to grant licenses. In addition, 158 towns granted licenses which were formerly no-license towns. It may thus be inferred that, at some period during the preceding twenty-five or thirty years, more than one half of the towns accounted for had been, or were in 1894, no-license towns. In many towns, license and no-license alternated from year to year; in many others, the period of dryness lasted from one to three years; and in not a few the no-license policy had prevailed from five to forty, and in one instance for fifty, years. In some counties no-license towns showed a remarkable preponderance. In Allegheny County, for instance, of twenty-nine towns reporting, twenty-two were without license. In Broome County there were ten no-license to four license towns, and so on.

Naturally, the no-license system obtained for the greater part in sparsely settled rural communities, where the demand for saloons was smallest. Concerning the enforcement of the no-license system and its general results, the information is vague. There was, however, this notable difference between New York and other States with local option laws: in the former the agitation for and vote upon the question have rarely proved disturbing elements in local campaigns; annual political upheavals on account of the liquor question were practically unknown. But it did unfortunately happen that excise commissioners forgot their ante-election pledges, and licensed saloons.

ENACTMENT OF THE LIQUOR TAX LAW.

The unsatisfactory state of the liquor traffic under the excise laws had long given thoughtful men concern. But for various reasons, mainly political, the reform measures submitted to the legislature had all been rejected. Through a series of events, the public mind was at last fairly roused on the excise question, and in a manner which had a direct bearing on the subsequent legislation.

In the early part of 1894 the Lexow Investigating Committee began to throw its searchlight on the corruption in New York city, laying bare, among other things, the violation of the excise laws, and the collusion of the dealers with the police which made such abuses possible. Inspired by fear, — for no one knew where the lightning would strike next, — the police began a crusade against the liquor dealers. The excise arrests for the year reached the astounding figure of 8,422 as against 3,999 in 1893, of which 5,974 were for Sunday violations; and convictions in magistrates' courts became frequent beyond precedent. Under the "reform administration" which sprang from the political revolution of 1894, the warfare against the liquor dealers continued more rigorously than ever; and, so long as the offenders were dealt with in the newly constituted Court of Special Sessions, punishment was meted out without fear or favor. So strenuous was the crusade of the police, which continued to be directed mainly against Sunday selling, that men gravely questioned how long the force could endure the terrific strain under which it was working. Although this movement for Sunday closing, which was followed by one on a smaller scale in Brooklyn, did not extend to other cities, where, as before, the "family entrance" remained open, it provoked an agitation and discussion that spread far beyond the confines of the Greater New York.

The question of excise laws had come to be more disturbing than all others. It was agitated in the press and public meetings, and gave rise to unusual demonstrations. The discussion did not revolve around any specific panacea for the existing ills, such as prohibition, high license, and the like. The real issue was whether the liquor traffic should continue to be governed by laws which local public sentiment refused to support; and the sum of the contention of the liquor dealers was that their business, since it supplied a public want and necessity, should not be burdened by a legislation which had proved itself obnoxious to most people and had long been a dead letter. They were ably supported by a part of the press; and a large body of citizens, including some of the most prominent men, encouraged the agitation in favor of changing the Sunday laws so that the inhabitants of the large cities could quench their thirst without inviting the dealers to break the law.

Such was the situation when the Republican State Convention met in 1895. The excise question in the form described was the ugliest one it had to face. Some years earlier the Republican party had pledged itself to excise reform, but then it was not in power, and the Sunday issue was not paramount. For obvious reasons the leaders were prepared to ignore the whole matter. Since the party mustered its majorities from communities strongly in favor of retaining all Sunday laws, it was impossible to adopt a plank favorable to the liquor dealers. On the other hand, to come out squarely against any changes in the excise law might alienate the party vote in the large cities. It seemed most convenient to dodge the whole issue. And this would have been the upshot but for the insistence of one man, who forced the convention to declare that the maintenance of the Sunday laws was necessary "in the interests of labor and morality." This not very explicit recognition of the burning excise question was all the convention ven-

tured upon. Yet it was enough to frighten the Republicans in New York city, who tried to undo the mischief through the adoption of a resolution by the county committee which "said nothing, meant everything, and lost the county." The difference of opinion on excise matters between the city and county Republicans had thus precluded a harmonious declaration by the convention. But, through the magic of a triumph at the polls in the subsequent election, the country Republicans found themselves masters of the situation, and enabled to deal with the vexing problem in their own way. Accordingly, the governor recommended in his message that the "legislature endeavor to formulate a law which shall, as far as practicable, embody the best features of the liquor laws now in successful operation in various States, with a consistent aim toward the reduction of the number of saloons in this State." Knowing that they would be in absolute control of the legislature, the Republicans had prepared for the emergency weeks in advance, and at a nearly moment presented the first crude draft of what since has become famous as the Raines law.

A summary of this law in its present amended form is given elsewhere. Its essential features, as contained in the first draft, have been retained. They were, the replacement of all boards of excise by a State Commissioner of Excise, appointed by the governor; a tax on each place where liquor was to be sold, graded according to population, but much higher in all cases than the maximum of the license fees; and a division of the fees between the State and the localities.

That the bill, however much the work of one man, had the cordial approval and consent of the "boss" of the Republican "machine" is beyond doubt. Its author publicly vouched for this fact.

The prominence given to the tax provisions would mark it as a measure of the dominant Republican faction, if other

evidence were wanting. There was a deficit in the state treasury, and the governor had felt called upon to warn the legislature in a special message against reckless appropriations. The party was pledged to legislation which would lower the taxes. Furthermore, the liquor tax bill was in accordance with the Republican policy of raising revenue by other means than direct taxation. Originally the bill provided that the liquor tax should be divided equally between the State and locality, whereas formerly the latter had absorbed all the license fees. It was an easy matter to calculate that, under the tax rates established by the bill, vast sums would be turned into the state treasury every year, and that more than a proportionate share would be contributed by the cities where the tax rate would be highest. This was intended to please the rural members, whose not over-friendly attitude toward the cities is almost proverbial, and make them forget that the bill in its first form omitted all reference to Sunday selling.

Nearly all the members of the Senate Committee on Taxation and Retrenchment, to which the bill was referred, came from the smaller towns. A number of other bills relating to excise had been referred to the same committee, notably one providing for local option on the question of Sunday selling in the cities of New York, Brooklyn, and Buffalo, accompanied by a petition signed by 150,000 inhabitants of New York. Although this measure had a strong backing, and much pressure was brought to bear in its favor, it was intolerable from a party point of view.

Soon it became evident that the machine programme was to pass the Raines bill with all possible speed. But this appears to have been a more formidable task than was anticipated. Republicans from the cities felt that to vote for a bill so sweeping in its changes, which abolished the cherished home-rule privileges, and aimed to lighten the rural burden of taxation at the expense of

the cities, was for them to invite political suicide. They had to be appeased in a measure by amendments, such as the one changing the State's share of the liquor money from one half to one third. There was a storm of opposition to the whole scheme, threatening enough all over the State to make even some rural legislators faint-hearted. The keynote in the discussion of the bill outside the legislature was, What is the real purpose of the measure? It was observed that, when a considerable opposition developed among the senators, the feature of the bill particularly urged by its author as a reason for passage was its revenue-producing qualities. No plea was made on the ground of its supposed moral effects. In fact, temperance talk was conspicuously absent from the debate. Perhaps for this reason some religious bodies were led to condemn the whole bill in advance, and to express emphatic distrust of its honesty of purpose.

When first introduced, it was loudly proclaimed as one of the primary objects of the bill to take the liquor question out of politics, the leaders of both houses repeatedly avowing their intention to pass a measure which would accomplish this great end. But the amendments adopted seemed to the objectors to belie this intention. More elaborate state machinery for executing the law had been devised. There was, for instance, a provision for the appointment of sixty *confidential* agents, hence not, it was conjectured, to be subject to a competitive civil service examination. Plainly, the bill afforded a large patronage to the ruling party, the annual outlay for salaries alone being estimated at $250,000. These and other facts were urged to show that the bill would have the effect of making the liquor question the most important if not the dominant element in state politics. The powers conferred upon officers were held to be excessive and arbitrary, and to afford unlimited possibilities for blackmail and corrup-

tion, and therefore more dangerous than the discretionary powers held by excise boards. At the outset some of the most enlightened men in the community expressed views like the above, but later found occasion to modify them. And subsequent events have shown that some of the advance alarm was needless, not because the intentions of the bill were wholly misjudged, but because, through accidents, some of them could not be carried out.

It seems beyond doubt that the bill, not incidentally but avowedly and of set purpose, created a political engine, while at the same time mildly endeavoring to conciliate the moral sentiment of the State. By substituting state for local control, the Republican machine had nothing to lose but everything to gain; for there was no intention of effecting any real change in the rural districts, except that they would now be taxed from Albany. The excise boards had proved strong and awkward factors in politics. As a rule the Democrats controlled them in the large cities. But, even if in Republican hands, their subserviency to the machine could not be taken for granted. Here was an opportunity to abolish them all, and substitute a political adjunct which could be absolutely controlled, and which through patronage, if not in a more direct manner, would add to the party strength at weak points. Above all, a telling blow would be dealt the Democratic party, which was supposed to get much of its support through the local excise boards. The latter had not so commended themselves to public favor that a dangerous agitation for their retention was anticipated. Nor was the cry for home rule likely to be stronger than the desire to replenish an empty treasury without imposing a perceptible burden. And, in the future, a long purse for appropriations would help to justify the machine rule. On the other hand, the bill involved antagonism to the organized trade. But its advocates said, with true pro-

phetic instinct, that this would disappear when the new provisions came to be better understood. To be sure, those interested in the liquor traffic were generally of another political creed; and perhaps few were sanguine enough to believe that they could be driven to forsake their faith *en masse*. But might it not work a political disintegration in their ranks to discover that their own party could no longer extend local favors through excise boards? Besides, those of the trade who adhered to the Republican machine could now be brought to the fore to great advantage, and a whip might be cracked over the heads of the others as occasion required.

It should also be borne in mind that, while the Raines bill was pending, the "machine" made strenuous efforts to "jam through" the Greater New York bill. That a piece of legislation fraught with such stupendous changes, and involving such political possibilities, should have been advocated by the same men who favored the liquor tax law seems explicable only on the ground that they hoped to weaken their foes, and add elements of strength to their own party, through this new machine of their creation.

The fury of opposition to the bill was successfully withstood. Nevertheless, on the night of March 21, 1896, when the bill came up for the last time, something like a stampede threatened. It was only by locking the doors, to prevent any Assemblyman from escaping, that the attendance of the necessary number was secured, and the bill was finally passed by a vote of eighty-four to fifty-nine. The governor signed it a few weeks later, after having given several hearings to protesting delegations, prominent among which were sixteen mayors of cities.

SUMMARY OF THE NEW YORK LIQUOR TAX LAW OF 1896 AS AMENDED IN 1897.

The principal amendments are designated by italics.

EXCISE OFFICIALS.

THE old boards of excise are superseded by a state commissioner of excise, appointed by the governor, with the advice and consent of the Senate, to hold office for five years at a salary of $5,000 a year, to which is added the sum of $1,800 for expenses. He is under a bond of $20,000 for the faithful performance of his duties. *The state commissioner is required to make an annual report to the legislature on the transactions of his office, "which shall contain such statements, facts, and explanations as will disclose the actual workings of the liquor tax law in its bearings upon the welfare of the State, . . . and such amendments of this law as the commissioner shall deem appropriate."* It is the duty of the state commissioner to appoint, —

1. A deputy commissioner, at a salary of $4,000 a year, who must give bond in the sum of $20,000; a secretary, a financial clerk, and the other clerical force needed in his office. 2. A special deputy commissioner in each county having a city of the first class, to hold office during his pleasure. Such counties are at present New York, Kings, and Erie. The amount of the bonds to be furnished by the special deputies is fixed by the state commissioner. He has also the appointment of the clerical force needed by the sub-officers and prescribes their duties. 3. Special agents to the number of sixty, at a salary of $1,200 each per annum. The special agents are deemed the confidential agents of the state commissioner, and shall, under his direction and as required by him, investigate all matters relating to liquor taxes and the enforcement of the various provisions of the

law. The agent may enter any place where liquor is sold, for the purpose of investigation, and must make complaints of violations of the law under the penalty provided for neglect by public officers in this respect (a fine of $500). 4. Attorneys to represent him or act with him or his subordinates in legal matters arising in connection with the liquor tax law. *All officers appointed by the state commissioner may be removed by him.*

CLASSIFICATION OF CITIES AND TOWNS.

For the purpose of grading the taxes on liquor selling according to the population of the place in which the business is to be carried on, the following classification has been adopted: First class, a city of 1,500,000; second class, a city having less than 1,500,000 but more than 500,000; third class, a city having less than 500,000 but more than 50,000; fourth class, a city or village having less than 50,000 but more than 10,000; fifth class, a city or village having less than 10,000 but more than 5,000; sixth class, a village having less than 5,000 but more than 1,200; seventh class, all other places.

GRADES OF LIQUOR TAX CERTIFICATES.

1. For the retail traffic in liquor to be drunk on the premises, whether in a hotel, restaurant, saloon, store, etc., tax rate: First class, $800; second, $650; third, $500; fourth, $350; fifth, $300; sixth, $200; seventh, $100.

2. For the sale of liquor in quantities of not less than five gallons, not to be drunk on the premises, tax rate: First class, $500; second, $400; third, $300; fourth, $200; fifth, $100; sixth, $75; seventh, $50.

3. For the sale of liquors by a duly licensed pharmacist, not to be drunk on the premises, tax rate, $5.00.

4. For the sale of liquors on steamboats, vessels, and cars, at retail, tax rate, $200 for each car, steamboat, vessel, etc., on which the traffic is carried on.

5. *For the delivery of malt liquors from vehicles. The holder of a tax certificate for the sale of liquors in quantities of less than five gallons, who is engaged in the business of bottling malt liquors, and wishes to sell them at any other place than the one mentioned in the tax certificate, may sell or deliver malt liquors from a vehicle in quantities of less than five gallons, but not less than three at a time, on paying a tax of $100 for each vehicle so employed. The tax certificate must at all times be carried with such vehicle or be posted on it.*

6. *For the sale of alcohol in quantities of less than five gallons only, between the hours of seven* A. M. *and seven* P. M., *on any day except Sunday, for mechanical, medicinal, or scientific purposes, by dealers who are not engaged in the sale of liquor of any other kind, tax rate: First class, $25; second, $20; third, $15; fourth, $10; all others, $5.*

RESTRICTIONS AND REGULATIONS GOVERNING THE GRANTING OF LIQUOR TAX CERTIFICATES.

Debarred from receiving such certificates are persons who have been convicted of a felony, or who *knowingly have a person so convicted in their employ;* minors, aliens, and non-residents of the State; corporations or associations incorporated or organized under the laws of another State, except when acting as common carriers; a copartnership, when not at least one half of the interest in it is owned by a resident citizen; a corporation, association, copartnership, or *person or agent* who has been convicted for a violation of this act, until five years from the date of such conviction; a *corporation* (club) *trafficking in liquors with any person other than the members thereof;* persons engaged in any business contrary to the laws of the State.

A liquor tax certificate of the first grade may not be granted, —

1. To a person engaged in the business of selling groceries, or dry goods or provisions, or drugs as a pharmacist, unless it be to carry on the traffic in liquors at some other building, or, if in the same building, then *only in a room which is separated by partitions at least three inches thick, with no means of communication between it and the rooms where the other business is carried on, so that it is necessary to go into a public street before the place can be entered upon leaving the other.*

2. For any building or place which is on the same highway and within two hundred feet of a building occupied exclusively as a church or schoolhouse, except for premises occupied as hotels or saloons under the law of March 23, 1896, and to *bona fide clubs, or a place within such limit to which a club may remove.*

Trafficking in liquors is further prohibited in any form upon or from any vehicle which does not have a special liquor tax certificate; and in any penal or other institution of a public character, or within half a mile of such institution, except a county or state prison.

All persons liable for a tax under the law, except common carriers and applicants for a bottler's certificate, must submit a signed and sworn statement to the county treasurer or special deputy commissioner, in which shall be stated : —

The name and residence of the applicant, and *the facts as to his citizenship;* the premises where the business is to be carried on, and the *specific location of the bar* at which liquor is to be sold; the kind of traffic to be engaged in, and what other business, if any, in connection therewith, or in the room adjoining, is carried on by the applicant or any other person; that the *applicant has not been convicted of a felony, has not had a license revoked under former laws, nor been convicted of a violation of the present act within five years prior to the date of*

application; and that he is not interested in any unlawful traffic or occupation.

If the applicant intends to sell liquor in a hotel, he must show that all the requirements of the law relating to hotel-keeping have been complied with. Unless liquors were lawfully sold on the premises described in the statement when the present law went into effect, a consent in writing executed by the owner of the premises or his agent must be filed with the application. A similar rule applies to buildings which are public property.

When the nearest entrance to the place where liquors are to be sold is within two hundred feet of the nearest building or buildings occupied exclusively as dwellings, the consent in writing of the owners of at least two thirds of such buildings must be obtained. *If the premises were used for saloon purposes, or occupied as a hotel, with or without a bar, at the time this law went into effect, no such consent is required.*

BONDS.

Each corporation, association, copartnership, or person taxed must furnish bonds in the penal sum of twice the amount of tax for one year upon the kind of liquor traffic carried on, but in no case for less than $500, conditioned that the applicant will not permit any gambling or disorder, nor violate the law in any way, and that all fines, penalties, and judgments will be paid. Two sureties are required, or the bond may be issued by a corporation duly authorized to do so under the laws of the State.

ISSUING TAX CERTIFICATES.

When the application is found to be correct in form, and "*does not show on the face thereof that the applicant is prohibited from trafficking in liquors*" *under the section of the law under which he applies,* "nor at the

place where the traffic is to be carried on," and when the bond is found to be in order, then, upon the payment of the taxes, the proper authorities "shall at once prepare and issue a liquor tax certificate." The certificates must be so displayed as to be visible from the street.

SURRENDER, TRANSFER, AND SALE OF TAX CERTIFICATES.

Elaborate provisions are made for the payment of rebates in case a liquor tax certificate, which has at least another month to run, be voluntarily surrendered by a person *against whom there is no complaint or action for violation of the law*, except holders of certificates of grades three, five, and six. On the death of the original holder, a liquor tax certificate may be surrendered in the same manner, or the business be continued by the estate.

Holders of liquor tax certificates may transfer their business to another locality in the same city or town upon filing a new application and bond. The sale of liquor tax certificates for the unexpired terms thereof is restricted to grades one, two, and four, but requires in all cases the consent of the official who issued it, or of his successors. Such sale, however, is *not permitted if the holder is under indictment for violation of the law*, or if a complaint under oath is pending against him. The fee for legalizing such sales is $10, to be apportioned and accounted for as taxes. If an official refuse to issue or transfer a liquor certificate, the applicant has the right to a writ of certiorari to review the action of such officer.

REVOKING TAX CERTIFICATES.

At any time after a liquor tax certificate has been granted, any citizen of the State may present a verified petition to a justice of the Supreme Court for an order revoking and canceling such certificate upon the ground

that material statements in the application of the holder of the certificate were false, or that for any reason he is not entitled to hold it. *The order granting the hearing of the petition must contain an injunction restraining the holder from transferring or surrendering his certificate until the case is disposed of.*

RESTRICTIONS GOVERNING THE SALE OF LIQUOR.

It is prohibited to sell, deliver, or give away liquors to any minor under the age of eighteen, and *to such minor for any other person;* to habitual drunkards; to an Indian; to a person to whom a dealer may be forbidden to sell by notice in writing from the parent, guardian, husband, *wife*, or child of such person over sixteen years of age, or by a magistrate or overseer of the poor of the town, but the latter only in case the person in question is wholly or partly a charge upon the town; to any person committed to a public institution, except on the prescription of a physician to such an institution. It is further unlawful for one who has not paid the tax to sell or give away any liquors in any quantity less than five gallons, or, without having paid such tax, to sell or give away liquors in any quantity any part of which is to be drunk on the premises.

It is prohibited to sell liquor on Sunday, or before five o'clock A. M. Monday; on any other day between one and five A. M.; on election days, within quarter of a mile of any voting place while the polls are open; to sell adulterated liquors; to permit any girl or woman, not a member of the dealer's family, or *any person who has been convicted of a felony, to sell or serve any liquor on the premises.* During the hours when sale is prohibited, the doors must be kept locked, and no person, who is not a member of the dealer's family or in his employ, may be admitted. During the hours when the sale of liquors is forbidden, any obstruction to a full view of the bar from the sidewalk is

prohibited, and it is *unlawful at any time to have an inclosed box or stall which prevents a full view of the room by every person present.*

A person residing in a town where local prohibition obtains is not permitted to take orders for the delivery of liquor to any person residing in the same town. Local prohibition does not, however, prevent manufacturers of liquor from legally selling in quantities of five gallons or more for delivery outside the town.

The necessary exceptions are made to allow a holder of a pharmacist's liquor tax certificate to sell on prescription during the prohibited hours.

The holder of a liquor tax certificate of the first grade, who keeps a hotel, may sell liquor to his guests with their meals, or in their rooms, on Sundays as well as week-days, *except between the hours of 1 and 5* A. M., but not in the bar-room. The term "hotel" is defined as a building regularly used and kept open for the feeding and lodging of guests, where all who conduct themselves properly and *are able to pay for their entertainment are received if there be accommodations for them, and who, without any stipulated engagement as to the duration of their stay or rate of compensation, are supplied with their meals, lodging, refreshment, etc., and in which the only other dwellers shall be the family and servants of the hotel-keeper.*

A hotel, if located in a city, incorporated village of 1,200 or more inhabitants, or within two miles of the corporate limits of either, must conform to all laws and ordinances relating to hotels and hotel-keepers. *The building must contain at least ten bedrooms above the basement, exclusive of those occupied by the family and servants, all rooms being separated by a partition at least three inches thick, with independent access to a hallway. Each room must have at least 80 square feet of floor area, and at least 600 cubic feet of space. The dining-room must have at*

least 300 square feet of floor area, with accommodations for at least twenty guests at one time, and must not be a part of the bar-room. The kitchen and conveniences for cooking must be sufficient to provide meals for twenty guests at one time.

A guest of a hotel is defined as a person who in good faith occupies a room in a hotel as a temporary home, but does not occupy it for the purpose of having liquor served therein; or as a person who, during the hours when meals are regularly served therein, resorts to the hotel for the purpose of obtaining a meal.

Clubs incorporated prior to the enactment of this law are exempt from the provisions regarding the sale of liquor to members during the prohibited hours.

In cities, the holders of liquor tax certificates of the first grade may, on the presentation of a permit signed by the mayor and chief of police and a payment of a tax of $10 for each day, obtain a special liquor tax certificate for sale of liquor during prohibited hours, 1 to 5 A. M., of one or more specified days, not including Sundays, at the place specified in the permit. No recovery can be had for liquor to be drunk on the premises when sold on credit.

Any tax-payer residing in a county, in which a violation of the law occurs, may present a verified petition to a justice of the Supreme Court for an order enjoining the person from selling liquor.

LOCAL OPTION IN TOWNS.

The law prescribes the submission of four distinct questions to the qualified electors of towns: Whether liquor-selling shall be permitted, (1) for consumption on the premises where sold; (2) not for consumption on the premises where sold; (3) by pharmacists on a physician's prescription; (4) by hotel-keepers only. The fourth question

reads as follows: "Shall any corporation, association, co-partnership, or person be authorized to traffic in liquors under subdivision 1 of section 11 of the liquor tax law, but only in connection with keeping a hotel, in ——, *if the majority of the votes cast on the first question submitted are in the negative?*" *If the majority of the votes cast on the fourth question submitted are in the affirmative, and a majority of the votes cast on the first question are in the negative, a liquor tax certificate of the first grade may be granted to keepers of hotels who may sell liquor to be drunk on or off the premises, though the majority of the votes cast on the second question be in the negative. If the majority of the votes cast on the second question be in the affirmative, the holder of a liquor tax certificate of the second grade who is a pharmacist shall not sell as a pharmacist if a majority of the votes cast on the third question are in the negative.* The questions were to be voted on at the first annual town meetings after the passage of the act, and are to be again submitted at the annual town meetings held in every second year thereafter, provided at least ten per cent. of the electors request a re-submission of the question by a written petition signed by them before a notary public.

LIABILITIES AND PENALTIES FOR VIOLATION OF THE LAW.

Clerks, agents, employees, or servants are held equally liable as principals. Each violation of any of the provisions of this act shall be construed to constitute a separate offense. In the case of corporations or associations, their officers are held liable.

The penalty for selling liquor without having lawfully obtained a liquor tax certificate, or for refusing to make application for one, or to give bond, is a fine not less than $200, or more than $1,000, provided the fine equals the

amount of the tax for one year imposed upon the kind of traffic in liquor carried on. Imprisonment for a term of not more than one year may be added to the fine.

For making a false statement in the application for a tax certificate, and selling liquor contrary to the several restrictions imposed, or in violation of the grade of certificate obtained, there is a fine of not more than $500, or imprisonment for not more than one year, or both. In addition, the liquor tax certificate and all rights under it are forfeited.

If any person, acting for the holder of a liquor tax certificate, be twice convicted of a violation of the law, the certificate of the principal is forfeited, together with all rights and privileges thereunder.

Any person convicted of a violation of the law may not be granted a liquor tax certificate within five years of the date of such conviction; nor is he permitted to have any interest therein, or become surety on any bond required under the act.

Any person convicted of a violation is liable to an extra penalty of $50 for each offense, to be recovered by the state commissioner of excise in an action brought in any court of record of the State. The place of trial of such action may be changed to any county adjoining the county in which the defendant resides. If judgment be recovered against a certificate-holder, the certificate and all rights thereunder are forfeited.

County clerks are required to furnish periodical statements to the Excise Department of orders and judgments obtained, indictments, etc.

Magistrates are required to report all arrests for violations, and the result of the preliminary examination of offenders, to the state commissioner, as well as to the district attorney of the county.

It is the duty of the special deputy commissioners,

special agents, and of every county treasurer, as well as of other local officers having notice or knowledge of any violation of the law, to immediately notify the district attorney in the county in which the violation occurs by a sworn statement.

The penalty for neglect of public officers to perform their duty under this law is a fine of $500 for each offense; and if the officer is a county treasurer or district attorney, the governor shall remove him from office. Any citizen may prefer charges to the governor against such officers. There are clauses in the law having the purpose to avoid a trial by jury of excise cases wherever possible.

Note. In passing on the constitutionality of the new law, as it was soon called upon to do, the Supreme Court used the following language: "It (the Liquor Tax Law) is primarily and essentially an exercise of the police power of the State over a particular trade or business. . . . Taxation is but an incident, but one and not the chief, although a necessary, element of the legislation. Regulation of the traffic is the fundamental purpose of the law." (People ex. rel. Einsfell *v.* Murry, Appel. Div. Rep. May, 1896, p. 187.)

In confirming the above opinion, the Court of Appeals said, among other things: "An exaction imposed as a condition of the right to carry on a business dangerous to public morals, or which may involve public burdens, by way of discouragement or regulation, is not in any proper sense a tax." (New York Rep. 149, p. 367.)

According to the opinion just cited, the title "Liquor Tax Law" would seem to be a misnomer. If "primarily and essentially an exercise of the police power of the State," it is essentially a license law, and not of the same character as the Dow law of Ohio. The latter imposes a uniform tax in all parts of the State for each place in which liquor is sold by any person, corporation, or copartnership, the only requisite for engaging in liquor-selling being payment of the tax. The Liquor Tax Law assumes the illegality of the business of selling liquors, and imposes penalties upon persons engaged therein without obtaining the certificate required; it prescribes who shall and who shall not engage in such business, and fixes a certain

standard of fitness. The Dow law, on the other hand, assumes the business to be legal, but imposes a burden for the benefit of the public on all who wish to follow it. The new law differs from the one preceding it, not so much in the regulation of the traffic in liquors as in the manner of enforcing such regulations, which is to say that the power of administering excise affairs was diverted from local authorities and vested in a state commissioner and his subordinates.

THE LIQUOR TAX LAW IN 1896.

Before examining in detail the present workings of the law, its measure of enforcement and effects, some space must be devoted to the nine months elapsing before any defects discovered in it could be remedied by legislative enactment. These months, the latter part of 1896, were the formative period of the new régime. The good or bad in the law was revealed, the scope and policy of the State Department of Excise were fixed, and the trade had time to adjust itself somewhat to the new conditions.

At the outset the dealers considered themselves grievously injured. A more than trebling of the annual tribute of the saloon-keeper (speaking of the cities in which the highest fees were paid), without any discrimination in favor of ale and beer sellers, at once drove the weaker men to the wall. The larger the city, the more certain was this their fate. Under the former law, the small beer-shop keeper had led a hand-to-mouth existence, and had worried along with the aid of the brewer who advanced money and goods. Now such assistance was denied to many, for it did not pay. But his more fortunate fellows were not slow in perceiving that the severity of the new restrictions had been exaggerated. The first Sundays under the Raines law were unusually and universally "dry" in the State of New York. No one knew what open defiance might lead to. The side-door nuisance had to some extent become impracticable under the provision requiring the bar and interior of

saloons to be exposed to view from the street during the hours when sale was prohibited. But some dealers, with close political connections at Albany, had discovered before the passage of the law the advantage to be derived from the possession of a hotel license, and had obtained such from the excise boards. The general rush for licenses during the last days of the excise boards appears, however, to have been due to the discrimination of the new law in favor of premises which prior to its enactment had been occupied as saloons or liquor-selling hotels; these were exempt from the 200 feet clause and other disqualifications. When it finally became settled that, in order to sell liquor on Sundays with impunity, it was necessary only to run an establishment having a few extra rooms and facilities for serving a sandwich, the "Raines law hotels" sprung up like mushrooms. By November, 1896, the police of New York city reported to a Senate committee, appointed to investigate the workings of the new law, the existence of 2,378 liquor-selling hotels, of which 2,105 were stated to be offsprings of the law, and the remaining 273 bona fide hotels. In Brooklyn the hotel list had swelled from 13 to 1,474, and in other cities a similar condition prevailed. With a uniform tax on all sales for consumption on the premises, the law seemed to extend an invitation to dealers to take advantage of the easy conditions of its hotel clause. It permitted hotel-keepers to sell liquor on Sundays to guests, with their meals or in their rooms, but not in the bar-room; and a hotel was defined as a place "which is regularly kept open for the feeding and lodging of guests, and in which there shall be at least ten furnished bedrooms for their occupancy if in a city or incorporated village, and six bedrooms if in any other place." It became patent that the intent of the law, if it did truly intend to stop Sunday selling, was evaded in thousands of places. "Raines law hotels" became the jest of the country. The authori-

ties were in a quandary. As might have been expected, the Department of Excise washed its hands of all responsibility for the enforcement of general hotel regulations. Its application forms did not compel the applicant to state whether he intended to conduct a hotel or not. It was ruled to be outside its province to inspect the premises to be taxed before issuing a certificate. Besides, such a course was discovered to be impossible on account of the small number of special agents and the large number of hotels. Nor did it seem competent for the police to compel observance to the hotel clause, so loosely was the act drawn. In New York city the aid of the Building Department and of the Board of Health was invoked in turn. The latter was powerless, and the resources of the former were not equal to the emergency. After all, the evasions of the building laws were comparatively trifling, and, moreover, notice of ten days had to be given alleged violators, which afforded enough time for alterations. Again, the Building Department could only bring civil action against offenders. In other places there was even less authority for interference with hotels. In short, the "fake" hotels, to speak in the local vernacular, could only be legislated out of business, except in a few instances.

Another product of the times was the "Raines Club." Following an earlier decision, the courts held that the sale of liquor to the members of a club is not "trafficking in liquors." Taking advantage of this ruling, many men who held certificates surrendered them and organized and incorporated so-called social clubs, the same individual often representing the president, treasurer, and steward. Others transformed their saloons into clubs, arranging with their customers to "distribute" drinks to them on Sundays and during prohibited hours. The extent of this flourishing and very profitable business is apparent from data furnished by the secretary of state. From May 1, 1896, to January

13, 1897, he chartered 3,711 so-called clubs, as against 845 during the year May 1, 1895, to May 1, 1896. A majority of the clubs were of course located in the cities where the liquor tax is largest. So long as they did not violate the terms of the charters, the clubs were necessarily beyond the reach of the law. The loss of revenue through the untaxed but legally protected traffic was very large. Another complaint was that the club business engendered a competition with which law-abiding dealers could ill cope, unless they too became hotel proprietors.

All things considered, when the law had stood the first half-year the trade ceased to berate it violently. To be sure, many small dealers had been crushed, but not without advantage to those remaining. Sunday selling was practically legalized to such an extent that it helped to offset the heavier burden of the tax.

As usual, the increased penalties did not expedite the convictions for excise offenses. From April 1 to November 14, 1896, the district attorney of New York city had received 1,740 complaints of violations which resulted in 485 indictments and 941 dismissals by the grand jury; 314 complaints were not acted on; 226 trials resulted in 17 convictions; 39 accused persons pleaded guilty, and 13 were discharged by General Sessions; 207 cases remained pending.

The efforts of the Excise Department to enforce the law during the time in question resulted in 78 convictions on 411 verified complaints submitted to district attorneys; and fines were imposed to the amount of $4,636.00.

The first nine months under the Liquor Tax Law had demonstrated that its capacity for producing revenue had been underrated, that it had perceptibly diminished the number of saloons, and that it was ripe for amendments in very essential respects.

The Republican convention of 1896 had praised the law,

particularly its revenue features. The amendments proposed in the legislature of 1897 were not adopted without a struggle. It is of little interest to follow the protracted wranglings of the legislators, except to note that the evolution of the law, as is usually the case, was not determined so much by design as by circumstances and events. The tax feature had won a rare measure of popularity among up-country Republicans, who, nevertheless, professed to be shocked at the gross evasions disclosed, and, in order to keep faith with their constituents, were forced to insist upon remedies in the nature of amendments. In vain the city Republicans pleaded, and predicted political disaster in case the screws were again turned. Inaction had become impossible. Its pretensions as champions of temperance and Sunday observance had to be made good by the controlling faction. So the law was amended in its most vulnerable points; and it came to pass that the Liquor Tax Law attained a form very unlike the original draft presented to the legislature, as may be gathered from the abstract already given.

Had moral issues carried the day in the second battle over the Raines law? In certain respects the act seemed to be strengthened, and the discovered loopholes to be closed up. Although the punitive sections had manifestly overreached the mark, they were made more severe. By placing the clubs on an equal footing with saloons, yet ameliorating the status of those incorporated previous to May 6, 1895, by exempting them from certain restrictions, a "million dollars in taxes had been recovered." This was an unavoidable change. But the saloon-hotel was suffered to remain. In the course of its investigations, the Senate Committee had heard this new social institution denounced in unsparing terms by those best acquainted with it and on purely moral grounds. A simple means of abolishing it and stopping Sunday selling lay at hand, —

that of taxing it out of existence. No legal obstacle stood in the way, since the act had been pronounced to be virtually a license law. But politics and revenue were the issues, not morals.

THE EXCISE DEPARTMENT.

The law which went into effect March 23, 1896, terminated all licenses granted by excise boards on the 30th of June, after which date liquor could not be legally sold except under authority of a tax certificate. Scant time was thus left for the organization of the new Department of Excise. It was suddenly called into being to do the work formerly divided between nine hundred and sixty-four boards of excise, and was wholly without "forms, decisions, and precedents for the conduct of its business." That a fairly smooth-running machine was before long set in motion, notwithstanding the many perplexing questions to be decided, the vexatious delays in procuring a working force, and the magnitude of the work to be systematized, reflects much credit on the new department.

As now constituted, the Department of Excise consists of a state commissioner, a deputy commissioner, an acting and an assistant acting deputy commissioner, secretary, general counsel, and a clerical force. There are three distinct branches in New York city, Brooklyn, and Buffalo, each headed by a special deputy commissioner with his assistants and one attorney. In addition there are sixty special agents and fifty-seven county treasurers, the duties of the latter being the same as those of a deputy commissioner. The appointive power of the state commissioner is absolute. He not only selects his immediate subordinates and the special agents and attorneys, but all clerks in the branch offices; in short, every one connected with the department, except, of course, the county treasurers and their assistants. Furthermore, it is left with him to fix the

bonds and approve the sureties of each of his appointees, except the deputy commissioner. His power of removal is also very explicit.

The law prescribes with some minuteness the functions of the department, and in an unprecedented manner centralizes the control of the excise business in one man, the state commissioner. He is left the sole interpreter of the intent and scope of the law; he directs the goings and doings of the sixty special agents; and every detail of the work of his subordinates, including the fifty-seven county treasurers, must be submitted to him. Such power and authority have never before been vested in one man under the liquor laws of any of our States. It is a pertinent question, therefore, how this power is used.

At the outset the state commissioner took the ground that his duties are chiefly those of a fiscal agent concerned with the proper assessment and collection of taxes. Beyond compelling their payment, detecting evasions, and accounting for the money received and its distribution, his functions do not extend. It is not surprising that many persons awaited with some apprehension the stand which the department would take in the matter of issuing tax certificates. To be sure, the law seemed explicit enough in the provision which deprives the county treasurers and other officials of discretionary power in granting or refusing certificates, and declares that, when the formalities required have been observed, the official concerned "shall at once issue a certificate." Still, if the restrictions on the traffic implied in the lengthy application for a certificate were to prove of some practical value, it seemed not unreasonable that the truth of the statements made by the applicant should be inquired into. And if the law purposely designed to take away from the officials their discretionary power, could not such inquiry be made a duty of the confidential agents of the state commissioner? It

was also a question whether an official who, as it is easily supposable, might in some instances have personal knowledge to the effect that the facts set forth in the application were not true, should act on such knowledge and refuse to issue a certificate. On these questions "the department has ruled, from its organization, that the theory and intention of the Liquor Tax Law is, that the applicant must assume the responsibility and furnish the facts which entitle him to a tax certificate; that, if he conforms to the act in making the requisite statements, produces the consent required in certain places, files a bond which is correct in form with sufficient sureties, and pays the tax, the said officer shall at once issue the certificate; that the law expressly intends to limit the discretion of the officer issuing the certificate to passing upon the correctness of the form of the application at hand and the sufficiency of the sureties. This being done, the certificate must be issued, unless the officer has evidence at the time of presentation of the application that the applicant is debarred by being under some of the liabilities named in sections twenty-two, twenty-three, and twenty-four, which provide who cannot hold certificates, or some other facts appear on the face of the papers which defeat his application. There is nothing in the act which shows that it was the intention of the legislature that special agents or other officials should be sent out to make investigation or inspection before issuing tax certificates. The whole theory of the act is against any such intention. The opposite construction would re-inject into the law the feature of placing the discretion with some person to refuse or grant certificates to applicants, the exercise of which power, or so-called discretion, gave rise to notorious abuse under the old system, and enabled excise boards and their employees to use this discretion for personal and political purposes." (Annual Report of the Commissioner of Excise, 1896, pp. 28, 29.)

Under the above interpretation of the law, which in truth seems the only one admissible, the evils arising from arbitrary action on the part of excise officials have certainly been minimized. Since the law is absolutely silent on the question of moral character and fitness of applicants, except that felons are debarred, the discretion an official may allow himself through personal knowledge of the applicant is very limited. With regard to the special agents, the department holds that the law requires them, "under the direction of the commissioner, to assist the deputy commissioner and county treasurers in the collection of the tax, to detect and prevent violations or evasions of the law which impair the revenue, and to enforce and collect fines and penalties for its transgression, with such other services as they can and may properly render in assisting the proper peace officers and prosecuting officials in the general enforcement of the law." (Ibid. p. 23.) The law, of course, never contemplated that the special agents should supersede the peace officers in enforcing its general provisions and making arrests for simple violations of the penal code. In order to do this, a small army of special agents would have been required instead of a scant sixty, a number so small that it does not suffice even for a superficial surveillance of the traffic in a city like New York. The magnitude of the task of supervising the selling of liquor had evidently not dawned upon the minds of the rural legislators; for some of them certainly did entertain the notion that the special agents were to assist locally in enforcing police and peace regulations.

The special deputy commissioners and special agents do not seem to be specifically called upon to bring about the revocation of certificates, whether for the reason that the certificate was fraudulently obtained or because of a violation of the act. The law simply says that "any citizen" may petition a justice of the Supreme Court for an

order revoking or canceling a tax certificate. The deputy commissioner and county treasurers have no authority to revoke certificates; nor may they indeed cancel one that has been revoked by an order of the court, but must forward it to the state commissioner for cancellation. Since "the department holds that its sole province is purely executive, — that its duties are chiefly of a fiscal character" (Ibid. p. 24), and "it has been the policy of the department not to interfere with local officials in the execution of the law, but to give such help as is within its province and power when requested" (Ibid. p. 30), it is plain that enforcement of the law is left almost entirely in the hands of the local police. When, however, a violation concerns the payment of the tax, the department expects to lend a hand.

Beyond doubt, the policy of the department as outlined has been carried out honestly and in good faith. To the chagrin of some of the leaders, the manifest purpose of the controlling Republican faction to create a "liquor machine" was defeated, — a fact now being used to the advantage of other leaders. The governor decided the future fate of the department when, in nominating the present commissioner of excise, he did not heed the wishes of those desiring to place the department in the hands of one who would run it as an adjunct to his party, while incidentally he collected the revenues. A man of integrity and good intentions was chosen. The fact that the department did not become a mere political machine was not due to lack of design, but partly to the independence of the executive and partly to accident. The more important positions under the department were, of course, doled out as patronage, commanded more or less by men closely identified with the passage of the new law. A distinct attempt was also made to appoint only political heelers

as special agents, but the action of a state official forestalled it. While the department may at present use its influence to some extent in furthering the political fortunes of individuals, it cannot be said to show activity in party politics.

OPERATION OF THE LIQUOR TAX LAW IN SOME CITIES.

NEW YORK CITY.

The present method of issuing certificates is in striking contrast to the preceding method of granting licenses. Formerly the excise board sat as a court, passing judgment on the merits and demerits of applicants, hearing complaints and revoking licenses. All transactions were public, and their number may be inferred from the fact that between seventy and eighty thousand persons visited the offices of the board in the course of a year. Now the deputy commissioner simply passes on the formal correctness of the application and other documents. So far as he is concerned, all comers are practically served alike, — they pay the money and take the certificate. An advantage claimed for this system is that it prevents officials from discriminating between persons, and cuts off the opportunity for political and pecuniary blackmail; and this is doubtless true with respect to the new Excise Department. Its disadvantages, on the other hand, are that it is as possible now as under the old system for the most objectionable characters, for keepers of houses of ill-fame and other dives, to secure the protection of a license or certificate. Furthermore, so far as the police are concerned, the temptation to enter into foul bargains with certificate-holders has not been lessened one whit. Lest this statement appear un-

warranted, it must be reiterated that in New York city the deputy commissioner of excise does not question, either before or after issuing certificates, the truth of the matters set forth in the application. Thus, if a keeper of a disorderly house obtains a certificate, — and the writer knows this to occur, — the police are left to settle scores with such a person. Again, if a man wishes to open a Raines hotel, it is not necessary that he should notify the deputy commissioner of his intention. Having obtained the certificate, he may proceed afterwards to make arrangements for a hotel business; and the excise officer remains in ignorance of his purpose. It rests with the police and the Department of Buildings to see that the legal restrictions on hotel buildings are observed. Aside from its being outside his province to make any inspection of places, the deputy commissioner could not do so adequately even if he had all the sixty special agents at his command. Much less can discriminations be made in issuing certificates to persons who hold a proper club charter.

In illustration of the ignorance about the present state of the liquor traffic, except as to how many certificates are issued, it may be mentioned that neither through the excise officials nor through the police is it possible to ascertain the number of hotels, real or "fake," in which liquor is sold every day in the week. Even less is known of the clubs.

It does not appear that the character of the trade has been elevated by transferring the important function of issuing licenses or certificates from boards endowed with discretionary power to persons acting purely as fiscal agents, except so far as it is now removed from the influence of venal boards. But if the abolition of the boards with their corrupt practices has been a moral gain, it is to be feared that temptation to dishonesty besets the police perhaps more insidiously than ever, owing to the greater

secrecy observed in issuing certificates, and because the public has no means of knowing how far important regulations, for instance those governing hotels, are observed. Under other circumstances the sureties on the bond executed by the applicant might be regarded as a guarantee of his good character, but hardly in New York city, where bonds are for the most part furnished liquor dealers by one surety company.[1]

With regard to the transfer or sale of certificates, which is a rapidly growing business, the deputy commissioner exercises an extra-legal discretion requiring a few words of explanation. Under the Liquor Tax Law there is nothing to prevent a dishonest saloon-keeper from surrendering his tax certificate and getting the *pro rata* amount of tax refunded, thus leaving in the lurch the brewer who paid the tax for him in the first instance; or he may, with equal detriment to the brewer, transfer his tax certificate to some one on whom the brewer has no claim, and who may take his trade to a competing brewery. Having large pecuniary interests at stake in the saloons, the brewers early became alarmed at this unpleasant prospect, and cast about for some means of protection. It was currently reported in the press that, in return for a recognition of their claim on tax certificates in certain cases, the brewers would see that the bulk of the bond business was given to the surety company referred to above. There was nothing in the law to warrant the protection sought, and the deputy

[1] The "Fidelity Surety and Deposit Company of Maryland" has almost a monopoly of the liquor bond business, through intimate family connections with the "boss" of the Republican "machine" and the reputed author of the Liquor Tax Law, not only in New York and Brooklyn, but in many other parts of the State. Being organized under the laws of another State, it was debarred from doing business in New York, but for "family reasons" this disability was removed through a special act of the legislature. Other companies have come into the field since. The latest comer is backed, so it is said, by a powerful Tammany man, and expects to absorb most of the local business.

commissioner declared his inability to act as desired. At the present time, however, no tax certificate in which a brewer is pecuniarily interested can be transferred or surrendered without the latter's consent. His "claim" is recognized as valid, the application being indorsed to this effect, or other written stipulation made.

It is a well-known fact that few of the smaller dealers are their own masters in the sense of not being under heavy pecuniary obligation to others. If not directly selected to act as salesmen for the brewer, they are unable to pay the tax, rent, fixtures, etc., out of their own pockets. The wealthy brewer is their natural protector, since, in return for his aid, they can give him the exclusive privilege of supplying the brand of beer to be sold. As further security against loss, the brewer not only controls the transfer of the tax certificate, but takes a chattel mortgage on the saloon fixtures, often vastly in excess of their value.

The results of an examination of the chattel mortgages on saloon fixtures filed by brewers during the year 1897, as reported in the "Real Estate Record and Guide," are given in a table below. It does not pretend to be exhaustive, and necessarily takes into account only the mortgagors who could be easily identified, while a host of unidentified persons holding mortgages, generally in small sums, were excluded. Some out-of-town firms are represented in the table. The mortgagors are designated by numbers, and ranked according to the value of the mortgages held by each.

Mortgagors.	Number of Chattel Mortgages held.	Value.
No. 1	461	$1,410,175
" 2	390	1,272,664
" 3	284	572,173
" 4	97	310,179
" 5	76	288,618
" 6	145	270,315
" 7	91	264,536
" 8	133	256,008
" 9	106	181,435
" 10	96	164,923
" 11	50	157,423
" 12	76	147,735
" 13	90	138,991
" 14	96	137,128
" 15	57	134,082
" 16	48	116,909
" 17	69	100,750
" 18	49	88,417
" 19	51	84,505
" 20	47	68,397
" 21	47	65,936
" 22	28	64,362
No. 23	41	$64,157
" 24	31	59,116
" 25	42	57,367
" 26	40	47,708
" 27	29	39,126
" 28	41	30,265
" 29	45	28,332
" 30	7	14,362
" 31	11	12,750
" 32	3	10,200
" 33	1	8,991
" 34	3	8,500
" 35	4	7,577
" 36	7	5,416
" 37	4	3,940
" 38	5	3,900
" 39	1	3,000
" 40	3	2,200
" 41	1	800
	2,906	$6,703,362

To what extent the table justifies the inference that the saloon-keeper is but a man of "straw," that the brewer owns him, and that the control of so many saloons is equivalent to the concentration of an enormous and dangerous power in a few hands, may for the most part be left unargued. The danger of this power seems overrated. So far as any legislation affecting the liquor trade is concerned, the interests of the dealers and brewers are identical, whether they are held together by pecuniary obligations or not. Furthermore, the dealer is not always either an abject or an honest creature. As he does not hesitate to cheat the brewer in money matters on occasion, so he would not hesitate to act against him politically, were that course likely to be of particular benefit to himself. There is no evidence to show that the interests of brewers in saloons offer any impediment to the enforcement of the law. Aside from a desire for respectability which must be recognized, it is good policy for them to have the statutory regulations observed. Why the purveyors of spirituous liquors do not

become financially interested in saloons, in the same manner and to the same extent as brewers, is obvious.

Since, under the Liquor Tax Law, the principal requirement of an applicant for a tax certificate is that he produce the cash, the only effective barrier (the consent clause cannot be considered as such) to a multiplication of saloons, and, for that matter, of Raines hotels, is the amount of the tax. The fact that the higher tax rate has not only prevented an increase of liquor shops, but directly and materially reduced their number, has been hailed with much satisfaction, and therefore merits close inquiry. For the sake of comparison, some data from the Report of the Commissioners of Excise for the year ending December 31, 1895, must be given. The licenses of each class and grade issued during that year were as follows: —

	Class.	Grade.	Number.	Fee.
Hotel licenses	1	1	13	$500
Hotel licenses [1]	1	2	270	300
Saloon liquor licenses	2	A	6,930	200
Saloon restaurant licenses	2	B	371	100
Saloon ale-and-beer licenses	3		448	50
Storekeepers' licenses	4		1,071	200
Druggists' licenses	5		15	20
Additional licenses	6		13	100
Additional licenses [2]	6		29	150
			9,160	

Applications rejected and licenses refused	324
Applications canceled or withdrawn	848

On December 31, 1895, there were, deducting 33 additional licenses (issued only to places having a regular license), 9,058 licenses operative in New York city. The total number selling for consumption on the premises was

[1] Sales amounting to less than $40,000 per annum.
[2] All-night licenses.

7,984, or 349 restaurants without bars, 362 hotels,[1] and 7,278 saloons; of the last mentioned, 387 had restaurants attached. At the time in question, 161 places were closed, but holding unexpired licenses, they were, of course, at liberty to open at any time. The storekeepers' licenses were thus distributed: wholesale and retail dealers, 260; grocers, 614; bottlers, 139; druggists, 39; total, 1,052.

Statistics furnished by the state commissioner of excise show that from May 1, 1896, to April 30, 1897, 7,927 certificates were issued in New York city, or 6,997 of the first grade (saloons, hotels, and clubs), 878 of the second (for consumption off the premises), and 52 of the third (druggists').[2]

Taking the population of the city according to the state census of 1892 (1,801,739), we get the following proportion of inhabitants to licenses and certificates: —

	1895	1896-97
Inhabitants to each license or certificate . . .	198	227
Inhabitants to each place selling for consumption on the premises	225	257

There has thus been a gain of twenty-nine inhabitants for each place holding a certificate, and of thirty-two inhabitants for each place where liquor is sold for consumption on the premises. Or, if we take the number of licenses (8,906) issued during 1895–96, as given in the First Annual Report of the Commissioner of Excise, and compare it with

[1] The increase in hotel licenses in force was caused by the annexation of a new district in June, 1895, containing ninety hotels, which were licensed under the provisions of the law applying to towns.

[2] During the year ending September 30, 1897, 8,316 certificates of all classes were issued in New York, an increase due probably to the new club law, and 827 were surrendered. On October 1, 1897, the actual number of certificates in force was 7,686, but under what subdivisions they belonged is not known. The figures given above seem to afford the fairest basis for comparison obtainable, and are most nearly representative of present conditions, which is the main point. While no allowance is made for certificates surrendered, so, on the other hand, the places licensed but closed during part of 1895 are not taken into account.

the number of certificates actually in force October 1, 1897, we find a difference of thirty-two inhabitants in favor of the new law. It might be objected that the difference is really larger, since the clubs are now taxed. But making the exceedingly liberal estimate of ninety-four bona-fide clubs, and subtracting this number from the certificates in force at the above date, gives only an increase of thirty-seven inhabitants to each place over the old law. It is impossible to demonstrate precisely what benefits a community derives even from a marked diminution of places where intoxicants are sold. The conclusion that an appreciable decrease in drink-shops must of itself produce greater sobriety is, of course, as fallacious as it is superficial. Yet such a decrease has been extolled as the most meritorious result of the operation of the Liquor Tax Law in New York city. Although, as we have shown, the average increase of inhabitants to each license seems rather insignificant, it is supposable that some parts of the city have gained more than others, and that the higher tax rate has worked the greater changes in the poorer districts.

First of those affected by the new law were the proprietors of small beer-and-ale shops. Nearly all of them, that is to say about 400, were driven out of business by the sixteenfold increase of the tax. As a class these shops were the least obnoxious of all, and have so been regarded by students of social conditions. They were scattered through the tenement districts, and did a precarious business by selling beer, mostly by the bucket, for home use. A further notable diminution took place among the liquor stores and small restaurants without bars. Probably about fifty per cent. of the places closed were ordinary saloons. To what extent the poor districts have been affected by the new law can best be shown by the aid of simple charts. A section of the city containing a population of nearly 100,000 has been chosen for illustration. Two thirds of it lie east of

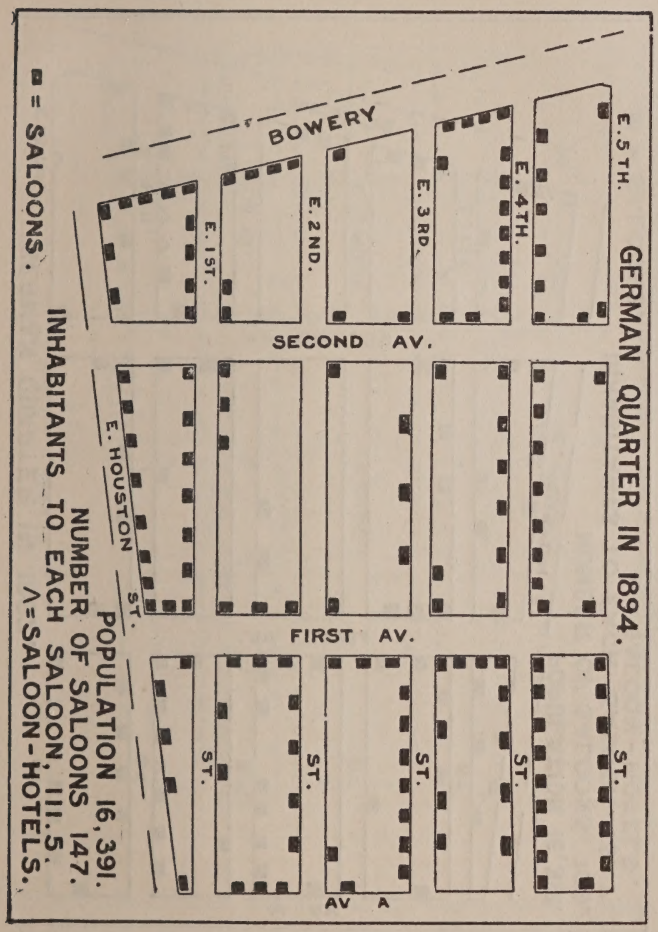
the Bowery, in the most densely populated down-town tenement district; the remaining third runs from the Bowery to Broadway, includes a portion of the so-called "slum" district investigated by the United States Department of Labor, and contains a goodly number of large stores and office buildings. Although contiguous, this section may properly be divided, according to the principal nationalities represented, into a German, a Jewish, and an Italian quarter. For the present purpose it is unnecessary to describe in detail the characteristics of these quarters, but the following enumeration of the principal nationalities represented and their numbers is of direct interest: —

NATIONALITIES.	Native.	German.	Jewish.	Irish.	British.	Italian.	Miscel.	Total.
German section	7,609	6,531	565	331	135	155	1,065	16,391
Jewish "	16,927	5,210	21,443	553	404	512	4,310	49,359
Italian "	8,752	781	231	1,765	121	16,319	297	28,266
	33,288	12,522	22,239	2,649	660	16,986	5,672	94,016[1]

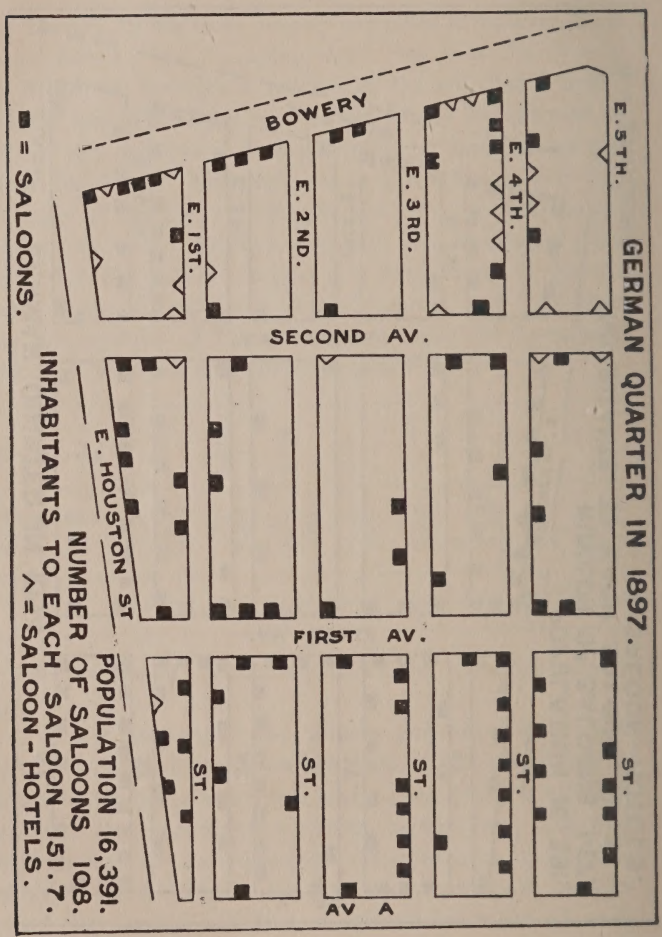
Most of the native-born are, of course, of foreign parentage.

The computation of the present proportion of inhabitants to saloons is made on the basis of the population of 1894. This is approximately correct, except for the Italian quarter, where not a few tenement houses have been torn down for street improvement. Elsewhere no appreciable movement of population has occurred. As might be supposed, the largest reduction of saloons has taken place in the Jewish section. Nevertheless, in a district occupied by a multitude of foreigners bearing the highest reputa-

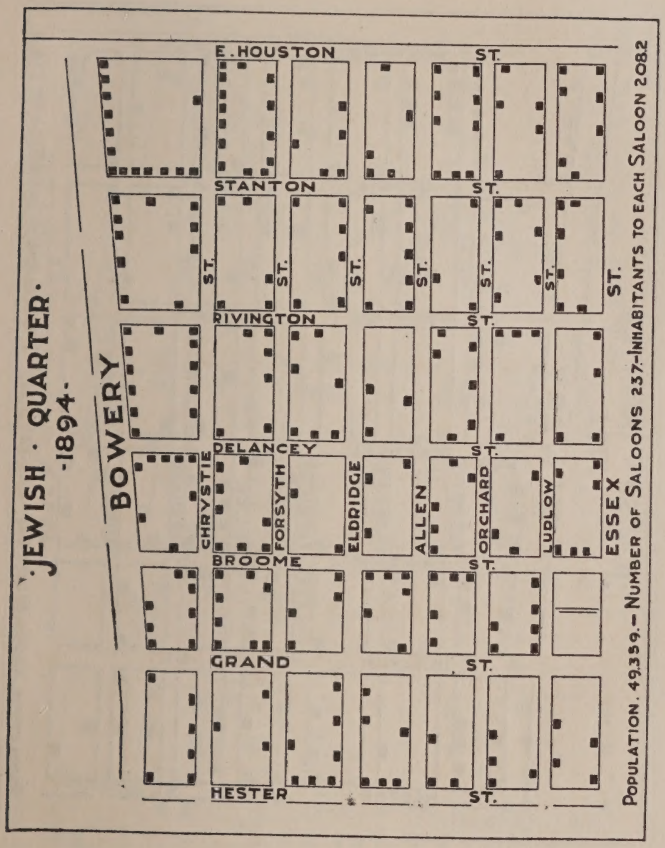
[1] For the above statistics as well as for the following charts showing the number of saloons, etc., in 1894, the investigator is indebted to a publication entitled *Social Statistics of a City Parish*, issued by the Church Temperance Society, New York, 1894.



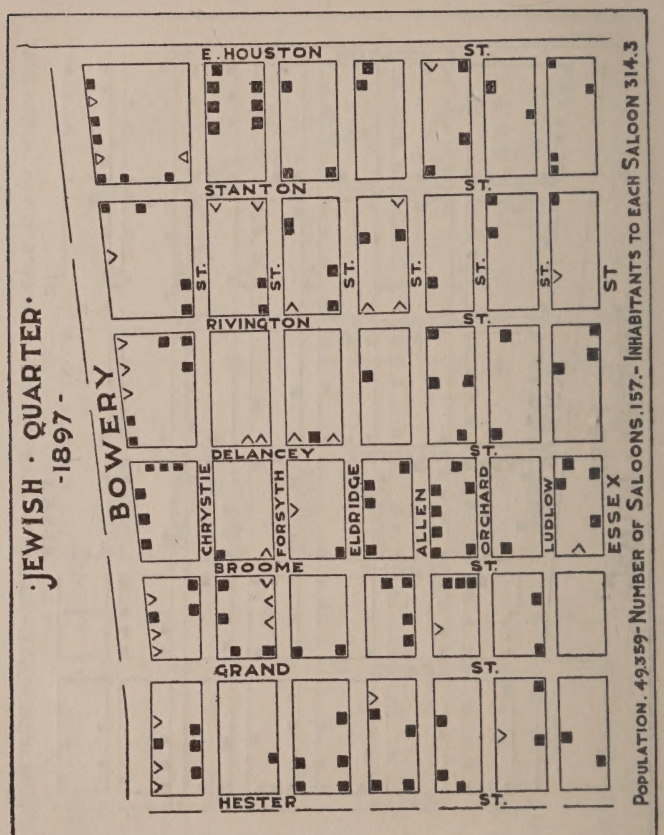
tion for abstemiousness, enough drink-shops remain to supply one for nearly all the corners of the forty-two blocks, and a generous sprinkling of saloon hotels in addition; the exact proportion being 3.7 saloons to the block.



Less favorable is the showing for the German and Italian quarters. To put the whole matter differently, under the operation of the Liquor Tax Law, 106.1 inhabitants have been added to each liquor shop in the Jewish quarter,

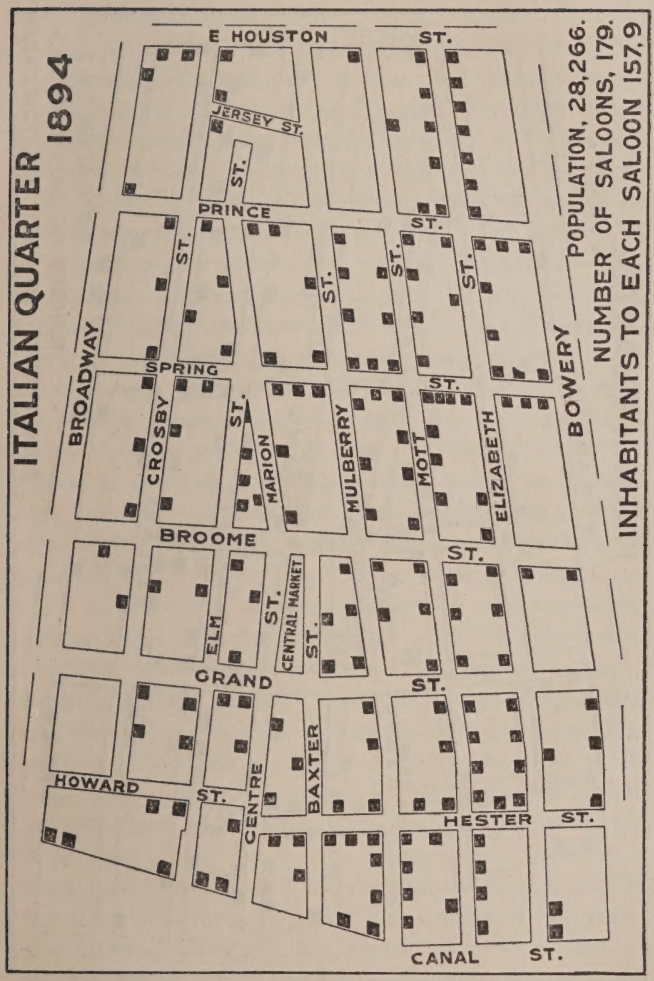


40.2 in the German, and 39.7 in the Italian, or an average of 63.5 for the whole area covered. Without disparaging in the least any effort to diminish the number of drink places, it is apparent that the Liquor Tax Law has not in this section worked changes of measurable value.

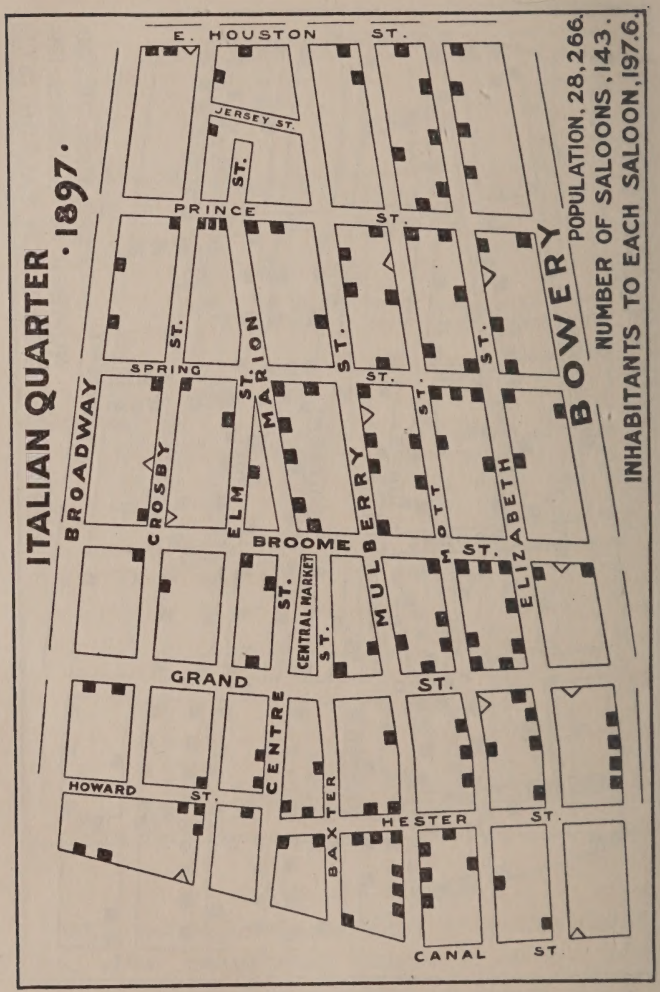


RAINES LAW HOTELS.

While one might have difficulty in proving that the hotel clause was purposely designed to act as a safety-valve for the irrepressible demand for Sunday selling, it did not require great penetration to see that it would operate as such in cities like New York. But since the nullification of Sunday prohibition was both in contraven-



tion of Republican pledges and odious to a large section of the party, some amendments to the hotel provision could not be avoided; and those adopted probably created the



impression that the hotel nuisance would be minimized. To those who had given the matter serious thought, it was apparent that the main effect of the new regulations would

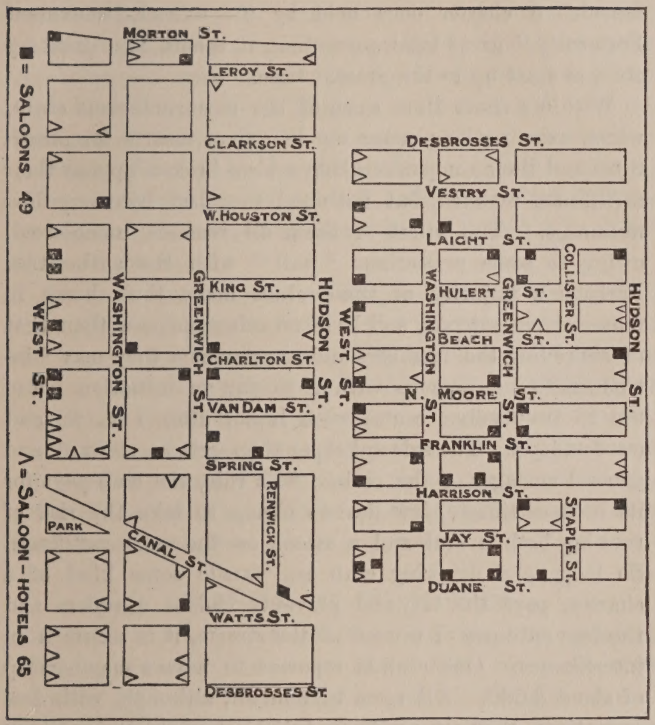
be to increase the cost of maintaining hotels. It seems that if the aim had been to put a stop to Sunday selling, regardless of the sentiment of the city Republicans, the legislature would have resorted to the easy expedient of taxing the pseudo hotel out of existence. It might have been done without violating the principle of the law.

As amended, the hotel regulations are less easily enforced than before. It is supposed that the police make an inspection now when a new "hotel" is opened, — how searching an inspection is not known. On the other hand, the best informed intimate that the affair is not taken seriously, provided the intent to circumvent the law is not too obvious. Once inspected, the hotels are left in peace. From such personal inspection as it has been possible to make, it seems indisputable that a goodly number of the places in question are truly "fake" hotels in the sense that they do not meet the legal requirements. Of the ramshackle, dilapidated place advertising quarters over the bar-room at $1 per week, or twenty cents a night, and board if desired, it is not necessary to speak at length. All have this in common, that the hotel business is not a bona fide venture, and is engaged in simply because it legalizes Sunday selling. But the sleeping apartments and the other extra rooms required involve a large expenditure for which the saloon-keeper seeks other equivalents than the increased income from selling liquor and the legal sandwich on Sundays. He may be fortunate enough to get one of the many clubs or associations to make its home with him. And if all else fails, there is always the last resort of turning his place into a house of assignation. Any attempt to estimate the number of hotel-keepers who stoop to this source of gain would be idle. It may be said on the authority of the police, who would not be inclined to exaggerate such a matter, that they are very numerous. This kind of hotel business has become a distinct and grow-

ing evil since the inauguration of the Raines law. Many dealers deplore it, of course, and are themselves careful to advertise "furnished rooms for gentlemen only." According to the most reliable estimate, the saloon-hotels, including the restaurants, which must also provide bedrooms in order to sell liquor on Sundays with meals, number about 2,500, and they are constantly increasing. The accompanying chart shows how abundantly some parts of the city are supplied with these institutions. The section chosen for illustration runs along the western water-front, from Morton Street on the north to Duane Street on the south, and extends three blocks east; it is about three quarters of a mile in length. The lower half abounds in wholesale establishments and shops, the upper half in warehouses and lumber yards. It is thus far from being a densely populated tenement district. There are not above half a dozen genuine hotels, and these suffice to take care of the transient guests who choose to stay in that part of the city. The others cater principally to the hundreds of 'longshore-men, teamsters, sailors, and dock-laborers, and on Sundays are welcome lounging places for residents of the neighboring tenement districts. No census of the population is obtainable. One may, however, safely hold that the number of inhabitants to each drink place is not above one hundred and twenty-five. Probably a majority of the residents are Irish, or of Irish parentage. Elsewhere saloon-hotels are particularly numerous along the great avenues on the east and west sides, but perhaps nowhere more abundant than in the section shown.

DRINKING CLUBS.

The general tax of $800 on clubs accomplished in large part a desirable end. Hundreds of associations, chartered by the Secretary of State subsequent to the passage of the new law, disbanded for purely financial reasons: they could



neither afford to pay nor could they escape the tax. The amendment denying to clubs organized or incorporated after March, 1896, the privilege of selling during the otherwise prohibited hours, could easily have been circumvented by the purchase of old charters, but it became necessary to have a tax certificate. All the remaining drinking clubs, estimated at about two hundred, are protected by charters granted at some time to now defunct organizations. The traffic in old charters has proved quite profitable. Plenty of them are in the market at prices ranging from $75 to $200, or whatever sum can be ob-

tained. A charter once held by "—— Sick-Benevolent Fraternity" gives legal protection, it seems, to a drinking club, at least up to the present time.

Within a short time some of the most notorious clubs, which were nothing more nor less than resorts for prostitutes and their companions, have been broken up and their certificates revoked, but not until they had become public nuisances. The vilest of them all remains unmolested, owing to some mysterious "pull" with the authorities. Perhaps a majority of these clubs make their home in rooms above saloons, and have no other purpose than that of supplying the members and those whom they may "introduce" (*i. e.* persons willing to pay an initiation fee of ten to twenty-five cents) with liquor after 1 A. M. and on Sundays. The saloon-keeper then acts as steward and general manager of the club. As a rule, the club pays for its own certificate, few dealers caring to take the risk of running both a club and a saloon on the same certificate. So long as a drinking club can parade some kind of a charter, pays the tax, and prevents violent disorders and the free entrance of women of the streets, it is secure from interference. One club is reported to have a membership of about 3,000. All seem to flourish, although, with few exceptions, they are rarely in full blast while the ordinary saloon remains open.

ARRESTS FOR EXCISE VIOLATIONS AND DRUNKENNESS.

It is a singular fact that the present law has been and continues to be enforced with greater rigor in New York than in any other large city in the State. Police efforts are mainly directed against Sunday selling by dealers who are not fortunate enough to be hotel proprietors. A number of excise arrests is reported every Monday, but not so many as there might be. If the saloon-keeper has the necessary kind of "influence," he may go on selling in

peace at all hours, on every day and night of the week, although a near-by competitor is arrested without ceremony for doing the same thing. On the whole, the present enforcement is signally lacking in uniformity of purpose. One cannot wonder at the prevalence of a feeling among a certain class of dealers that at least a partial return to old conditions is not very far off. It is expected that the protection now enjoyed by some will be extended to others for a consideration.

To show the utter lack of comparative data on which to base any conclusions as to the effect of the present law on the arrests for drunkenness, it seems enough to mention that the arrests for intoxication fell from 26,002 in 1891 to 19,729 in 1894, followed the next year by an increase to 22,497, as the result of special efforts to clear the streets of drunken persons. The whole matter of arrests for this offense is so much a question of police caprice that one can find statistics to prove almost any theory.

DISPOSITION OF EXCISE CASES.

When the Court of Special Sessions, then just organized, took up excise violations in July, 1895, many old cases awaited trial, and the weekly arrests furnishing new ones assumed proportions hitherto unknown. The work of the court, unexampled both for aggressiveness and results, was abrogated when the Liquor Tax Law took effect in 1896, since it provided that all proceedings should be by indictment and trial by a court of record. By the law as amended in 1897, jurisdiction in excise cases is again given the Court of Special Sessions, unless it appear during the preliminary examination by magistrates that a crime not triable by this court, which sits without a jury, has been committed. Some cases are, therefore, sent direct to the Court of General Sessions.

DISPOSITION OF EXCISE CASES IN THE COURT OF SPECIAL SESSIONS JULY 1 TO DECEMBER 31.

	1895	1896	1897
Convictions	1,280	254	11
Acquittals	163	162	50
Dismissed	21	43	28
Discharged on own recognizance	37		4
Demurrers allowed	3		35
Transferred to General Sessions	698	319	775
Fines collected	$38,205	$6,775	$125

The Court of Special Sessions, although somewhat handicapped by the penalties now provided, deals as thoroughly with excise offenses as ever, but comparatively few cases come before it. Defendants have learned that their chances of escaping punishment are much improved by securing a transfer to General Sessions. Here the process of indictment and trial by jury must be gone through, and the probability is that the case will never again be heard of. It is estimated that not over five per cent. of the cases transferred in 1897 have been tried, and it is safe to say never will be.

BROOKLYN.

Both under the old and the new laws, the conditions of the liquor traffic in Brooklyn have been so similar to those observed in New York that, in order to avoid tedious repetitions, they may be discussed in a few words. Although not blessed with excise boards more faithful and competent than its larger neighbor, Brooklyn has never supported a like proportion of saloons. The reasons for this are its comparative poverty, the fact that a large part of its population bring trade to the New York saloons during the day, and that the transient traffic is small. While the tax on drink places is at present $150 less than across the bridge, a slightly larger reduction in proportion to the population

has resulted; there has been a gain of thirty-four inhabitants for each place holding a certificate over the places licensed in 1895–96, against twenty-five in New York. Yet the proportion of saloon, club, and hotel certificates to 1,000 inhabitants is the same in both, namely, 3.6. The explanation offered is that fewer bottle shops found it profitable to continue business. The reduction is to be sought among these and the small beer-shops in the German districts.

Few drinking clubs are left since the law was amended; but the saloon-hotels remain prominent institutions, and present the general characteristics already described. A Brooklyn brewer is authority for the statement that one third of his customers have taken to letting rooms for immoral purposes. The extent to which saloon-hotels give shelter to the social evil is freely commented upon by citizens not otherwise particularly observant.

Enforcement of the hotel regulations seems feebler than in New York. It sounds exaggerated to say that all a dealer has to do is to put a sign reading, "Hotel now open" in his window, to sell undisturbed on Sundays, but instances are known of this happening. Since the consolidation of the two cities the police are displaying more activity on Sunday. Up to September 30, 1897, the State treasury had been enriched to the amount of $10 from fines imposed for violations in Kings County. It is not expected that the higher tax, which will go into effect on the expiration of the present certificate, will further diminish the number of saloons; but this result is looked for in other places now a part of Greater New York. Notable among them is Long Island City, where under a tax of $350 the ratio of inhabitants to each certificate is 103, and where police regulations are still laughed at by many dealers.

ALBANY AND NEIGHBORING CITIES.

The cluster of cities at the head of navigation of the Hudson aptly illustrates the fact that an adjustment of the liquor tax rate on the scale adopted in the present law affects closely related municipalities simply according to their size, and therefore in an unequal and unjustifiable manner. In other words, of two practically adjoining cities, with different tax rates, the smaller is almost sure to retain the larger proportion of saloons; or, if the tax rate be the same, the benefit from a reduction of saloons is in inverse order. For the sake of convenience, use is made of statistics contained in the Second Annual Report of the Commissioner of Excise, which give the proportion of saloons to each 1,000 inhabitants, and are computed on the basis of places holding tax certificates of the first grade (saloons, hotels, and clubs) on September 30, 1897.

Albany, population (census 1892), 97,120, has 4.4 drink places to each 1,000 inhabitants. On the opposite bank of the Hudson, and quickly reached from Albany by electric cars, lies the recently incorporated city Rensselaer, population 8,000. It is practically a suburb of Albany, the home of less well-to-do people, and not a business centre; yet the proportion of drink places — and there are hardly any bona fide hotels and no clubs — is 5 to each 1,000 people. Why? Because the tax here is but $300 as against $500 in Albany. Some dealers who could not afford to continue business in the latter — at least could not open hotels — found a home across the river.

A few miles to the north, on the eastern bank of the Hudson, is Troy. Although its population is smaller than that of Albany by about 32,000, the liquor tax rate is the same. In consequence, the proportion of drink places is smaller, being only 3.8 as against 4.4 in Albany. But under the old law Troy had relatively more saloons than its larger neighbor.

Nearly opposite Troy, but in Albany County, are the two cities Cohoes and Watervliet, populations 23,234 and 14,000 respectively. In both, the ratio of drink places to 1,000 inhabitants is the same, namely, 4.8, or one more than in Troy, for the tax rate is $150 less and rents are lower. It must not be understood that the saloons have decreased in Troy, and increased in the smaller adjacent places. A distinct diminution has taken place in the latter as well. The point is, that whatever benefit accrues from such diminution is unequally shared, and that the law operates less advantageously in the small cities. One fails to see why a tax of $500 should not produce even better results in Cohoes than in Troy, provided it be the aim to reduce the number of saloons. It is also evident that under the present law Watervliet would have fared better than it has, but for the proximity of Troy with its higher tax rate.

Another effect of the law in this part of the State is to make saloons move across city limits, or to near-by villages, where a smaller and almost nominal tax may be enjoyed.

There is no tangible evidence that the reduction of drink places in the cities mentioned has caused greater sobriety; for, after all, the changes have not been sweeping. Compared with the last year of the old law, the number of inhabitants to each place holding a license or certificate has risen in Albany from 130 to 173; in Troy from 117 to 157; in Cohoes from 111 to 155; and in Watervliet from 76 to 147. These figures seem to contradict the statement made above concerning the unequal operation of the tax rates; since the increase in population to each certificate issued is relatively greater in the two small cities. Nevertheless, the proportion of drink places remains as given; one cannot go behind the official returns. The increase in inhabitants to each certificate is explained by the disappearance of a multitude of bottle shops that ceased to be profitable under the new law.

The gain represented by the diminution in licensed places is probably fully offset by the appearance of the saloon-hotel. Police estimates give Albany about 100 of them; and Troy and the other three cities have their quota in similar proportion. Police officials state in most positive terms that a majority of these hotels have become abodes of other vices than that of drunkenness alone, and are practically beyond their control. No inspection is made either before or after the certificate has been obtained; consequently no one knows just how many there are, and to what extent hotel regulations are observed.

"It is putting it mildly to say that the law is indifferently enforced," remarked a high official of the Excise Department, speaking of the cities under consideration. During the last excise year, not one cent in fines was paid into the state treasury from Rensselaer County, and only $100 from Albany County. This is, however, not equivalent to saying that the police shirked their duties. Especially in Albany, the Sunday law was fairly well observed by the ordinary saloons. So far there is a decided improvement over former years, thanks to some sensible provisions in the law. But the dealers fear the discomforts and notoriety of being arrested rather than conviction for violations. Public officials did not hesitate to declare at the outset that they would not help to make the law effective. Apparently they keep their word; for cases backed by the strongest evidence continue to be thrown out of court. Many such could be cited; it is enough, however, to refer to the fact that no fines worth mentioning are collected. Politics enters largely into the question of enforcement, and even more so the feeling, shared by many who cannot be accused of enmity toward the law, that the penalties provided are too severe.

ROCHESTER AND SYRACUSE.

Events in Rochester have in a measure refuted the contention that the new law would take the liquor question out of politics. The overthrow of the Republican majority in the city and county, the "Republican banner-county in the State" at the last election, is attributed directly to dissatisfaction with the Raines law. This year a state election is pending, and for fear of rousing further animosity to the law, so it is alleged, efforts at enforcement are abating in vigor and the side doors are again open on Sundays. This is the test; for throughout the State enforcement has become synonymous with Sunday closing. So far as known, only one conviction has been secured for violations, and that is said to have been the result of "spite" against the offender. From the whole county $525 have been collected in fines.

Syracuse is another of the cities that have registered a political protest against the present liquor law. Yet it belongs to the group of municipalities most beneficially affected, so far as a reduction of licensed places goes; for here the proportional increase in inhabitants to each license has been greater than in any other city in the State, being nearly fifty. Had the dissatisfaction expressed been directed against the growth in saloon-hotels, instead of against the tax features and the abolition of home rule (that is, a "wide-open" condition), it would have been more intelligible. For, if the words of the chief of police are to be trusted, the saloon-hotels in Syracuse are little better than brothels. There are many of them. With regard to enforcement, it is enough to say that so far no fines have been collected in the city for the whole county of Onondaga.

In all the places visited, the county treasurers appear to issue certificates and collect taxes in harmony with the policy insisted upon by the Department of Excise.

BUFFALO.

With seventy-two inhabitants to each license place in 1887, Buffalo stood preëminent among the cities of the State as a saloon centre. Under the later administration of excise affairs by a board of police and excise commissioners a slight gain was made, so that nine years later Buffalo had been reduced to the sixth place and added forty-three inhabitants to each license. This board was distinguished from those of other cities by being of bi-partisan character, and having control also of the police. When dealing with the police, the mayor sat as an ex-officio member of the board, but not when it passed on excise matters. Thus it was sought to shut out politics, and with some success. On the whole, the board seems to have exercised its discretionary powers for the exclusion of objectionable characters from the trade. Under the small license fee of $125, however, the number of saloons remained near high-water mark. Except for a short time when the back-wash from the great reform wave which had swept over New York touched Buffalo, the Sunday laws were ignored, that is, the side doors were open.

One is forced to infer that in fixing the present tax rate the fathers of the law did not contemplate a wholesale reduction of drink places in Buffalo. A certificate of the first grade now costs $500, which, in spite of a population four and a half times as large, is the rate obtaining in Troy. Why Buffalo, although a city of the first class (Art. XII. sec. 11, Constitution of State of New York), has been so singularly favored in the matter of liquor taxes, when compared with other cities both above and below it in point of population, is not clear, but the result is clear: Buffalo has now more drink places (saloons, hotels, and clubs) than any other city in the State excepting three. One of these three is its near neighbor, Niagara Falls; the other two are

Long Island City and Mount Vernon, both of which gained some of the liquor dealers lost to Brooklyn and New York.

The effect of the new law on the number of licensed places will be seen from this comparative statement: —

Licenses issued in 1895–96 to		Certificates issued in 1896–97 to	
Hotels	34	Hotels, saloons, and clubs	1,751
Saloons	2,248	Storekeepers, etc.	110
Storekeepers and druggists	136	Druggists	24
Total	2,418	Total	1,885

On the basis of the population in 1892, the number of inhabitants to each license is now 147 as against 115 to each license in 1895–96.

Certificates are issued by a deputy commissioner, who discharges this function in the same manner as his colleagues. He is an active politician. While censure of his work is not wanting, evidence of shortcomings is wanting. A branch of the Fidelity Surety and Deposit Company of Maryland assumes responsibility for liquor bonds. Even less is done than in New York city to keep the saloon-hotels within bounds. There are about 400 of them at present, according to police estimates; no record exists showing the exact number. Neither before nor after a "hotel" opens, is an inspection made of the premises. For the force at the disposal of the deputy commissioner to make effective inspections is out of the question. It is not even incumbent upon him to notify the police when a certificate is issued to a saloon-hotel keeper. For a short time the police sought to supervise such institutions, but they do so no longer. There is no statute or ordinance requiring them to make inspections. The force is not adequate for this purpose, and "in order to keep the hotels under proper surveillance, it would be necessary to station a man in each." They are, therefore, practically beyond the control of the police, whose much respected chief characterized

the ordinary saloon as "bad enough, but not a tenth part as bad as the hotel." In plain words, these hotels are largely houses of assignation and other vices. They are not all bad, however. All grades are found, from the law-obeying German hotel to the vile dive selling mixed ale at three cents a glass, where neither pocket-book nor life is safe. All hotels are wide open on Sundays, and so, for that matter, are not a few saloons. Dealers report that they are less "troubled" by the police than formerly. Orders to enforce the Sunday regulations are as stringent as ever. But one can well understand a growing disposition among the rank and file of officers to wink at violations, so long as convictions do not follow arrests, and grand juries are loath to accept anything but the most compelling evidence. Just $485 have been collected in fines for excise offenses from Erie County in twelve months, and it should be remembered that the fine for some violations must at least equal the amount of tax for one year. Of the "fake" clubs little was learned except that a number exists.

OPERATION OF THE LIQUOR TAX LAW IN GENERAL.

EFFECT UPON THE NUMBER OF LIQUOR SHOPS.

From a temperance point of view, interest in the workings of the law centres about its effectiveness as a means of reducing the number of places where drink is sold. One cannot very well enter a plea for it as a temperance measure on any other ground. In saying this, the usefulness of some of the general restrictions placed upon the traffic is not overlooked, but their value depends entirely upon the extent to which they are enforced, and they do not differ essentially from those contained in the old law. Moreover, granting that in some respects the liquor business is under

better supervision than before, the gain seems fully counterbalanced by the absence of discretionary power in issuing certificates and the unrestrained abuse of the hotel privileges. The changes wrought by the law with regard to the number of liquor-selling places and the proportion of inhabitants to each one are shown in two tables, the first embracing the cities, the second the counties exclusive of cities.[1]

Cities.	Tax Rate.	Licenses granted, 1895–96.	Certificates issued, 1896–97.	Inhabitants to each License.	Inhabitants to each Certificate.
New York	$800	8,906	7,927	202	227
Brooklyn	650	4,702	4,025	203	237
Buffalo	500	2,418	1,885	115	147
Rochester	"	669	596	216	243
Albany	"	744	559	130	173
Syracuse	"	706	515	130	178
Troy	"	555	413	117	157
Utica	350	455	322	102	144
Long Island City	"	357	344	100	103
Binghamton	"	167	153	206	225

[1] The comparative statement made in the tables is based on the number of licenses of all classes granted in 1895–96, and the number of certificates of all grades issued from May 1, 1896, to April 30, 1897. The total of the latter is smaller than the whole number of certificates issued during the fiscal year ending September 30, 1897, for the reason, perhaps, that all clubs are now required to pay a tax, but the earlier year is considered by the Excise Department to furnish the fairest basis for comparison. Since certificates may be had for less than a whole year, and can be surrendered at any time without loss to the holder, many are surrendered, and the total number of certificates issued during the year is, therefore, greater than the number in force at any particular date. On the other hand, it must be remembered that numerous certificates are intended for use only during the summer season at country and seaside resorts ; and that elsewhere certificates are frequently surrendered only for a short time, — for instance, when a brewer has made up his mind that a new man must be placed in charge of his saloon. It was true of the licenses as well that by no means all were made use of during their entire term, although no rebates were paid. For these reasons no account is taken in the tables of the number of certificates surrendered.

Cities.	Tax Rate.	Licenses granted, 1895-96.	Certificates issued, 1896-97.	Inhabitants to each License.	Inhabitants to each Certificate.
Yonkers	$350	208	214	151	146
Elmira	"	273	203	109	147
Auburn	"	153	119	161	207
Newburgh	"	168	154	146	159
Cohoes	"	209	149	111	155
Poughkeepsie	"	158	136	146	170
Schenectady	"	160	148	142	154
Oswego	"	152	104	144	211
Kingston	"	183	141	117	152
Jamestown	"	56	63	332	295
Amsterdam	"	116	120	159	154
Watertown	"	61	69	278	246
Lockport	"	105	104	153	154
Niagara Falls	"	150	129	105	122
Mt. Vernon	"	72	88	215	176
Watervliet	"	183	95	76	147
Gloversville	"	54	68	272	216
Rome	"	106	57	128	239
Ithaca	"	54	65	249	207
Ogdensburg	"	51	47	234	254
Hornellsville	"	86	61	138	195
Middletown	"	77	67	150	173
Dunkirk	"	73	62	137	161
Corning	"	67	43	149	233
Little Falls	300	69	52	142	189
Hudson	"	111	86	86	112
Johnstown	"	34	37	275	252
Olean	"	69	61	132	149

Three cities, Geneva, North Tonawanda, and Rensselaer, were not incorporated prior to the enactment of the present law, and are hence necessarily excluded from this table, but appear in the next with the villages.

Averaging the number of inhabitants to each license and to each certificate for the cities classed according to the amount of first grade taxes, we obtain these results: —

Tax.	Cities.	Average No. of Inhabitants to each License.	Certificate.	Increase in Average No. of Inhabitants to each Certificate.
$800	1	202.30	227.29	24.99
650	1	203.56	237.80	34.24
500	5	141.92	180.10	38.18
350	27	163.79	183.59	19.80
300	4	159.13	175.77	16.64

Our averages illustrate forcibly the unequal operation of the present system of grading the liquor taxes. In other words, the benefit to a city from a reduction of drink places is, on the whole, in proportion to the amount of tax paid: the smaller the tax, the less the benefit; consequently the cities paying the smallest tax retain the largest proportion of saloons. The five cities having a first grade tax of $500 seem to form an exception, but here, for obvious reasons, the smaller, Syracuse, Albany, and Troy, fare better than Buffalo and Rochester. The point emphasized will perhaps be better perceived by showing the proportion of first grade certificates (covering saloons, clubs, and hotels), to 1,000 inhabitants, in force September 30, 1897, for the cities classed according to the rate of tax, as given in the Second Annual Report of the State Commissioner of Excise, pp. 105, 106: —

		Drink Places per 1,000 Inhabitants.
New York city, Tax,	$800	3.6
Brooklyn, "	650	3.6
Average for cities paying	500	4.3
" " " "	350	4.5
[1] " " " "	300	4.8

Highest average (Long Island City)	8.1
Lowest " (Jamestown)	2.6

It deserves attention that in the last mentioned city, as well as in seven others, all of which pay a low tax, the number of inhabitants to each place authorized to sell liquor

[1] Includes the three cities not given in our table.

has fallen off under the present law. For the thirty-eight cities the average number of inhabitants to each license is 162.48, and to each certificate 184.95, an average gain of 22.47 in favor of the present law.

Outside the cities there are paid for tax certificates of the first grade $350 by 4 villages, $300 by 21, $200 by 161, and $100 by 222. The last-named sum is the lowest tax allowed by law, and is therefore the one prevailing in the strictly rural districts. The next table is a comparative statement of licenses and certificates by counties exclusive of cities, hence exclusive of New York and Kings counties. An asterisk denotes that the county contains one or more cities : —

Counties.	Number of Licenses granted, 1895-96.	Number of Certificates issued, 1896-97.	Counties.	Number of Licenses granted, 1895-96.	Number of Certificates issued, 1896-97.
*Albany	82	154	Livingston	111	138
Allegany	65	82	Madison	174	158
*Broome	41	61	*Monroe	207	210
*Cattaraugus	130	169	*Montgomery	140	149
*Cayuga	62	69	*Niagara	160	134
*Chautauqua	74	101	*Oneida	228	215
*Chemung	48	48	*Onondaga	256	286
Chenango	92	104	*Ontario	146	140
Clinton	138	136	*Orange	288	280
*Columbia	125	136	Orleans	75	67
Cortland	42	72	*Oswego	130	116
Delaware	95	97	Otsego	160	144
*Dutchess	246	269	Putnam	61	49
*Erie	533	472	*Queens	1,285	1,302
Essex	96	110	*Rensselaer	353	277
Franklin	99	105	Richmond	543	505
*Fulton	53	57	Rockland	236	217
Genesee	86	86	*St. Lawrence	142	162
Greene	173	181	Saratoga	401	321
Hamilton	46	33	*Schenectady	45	51
*Herkimer	183	181	Schoharie	74	81
*Jefferson	168	173	Schuyler	48	46
Lewis	111	120	Seneca	118	109

Counties.	Number of Licenses granted, 1895-96.	Number of Certificates issued, 1896-97.	Counties.	Number of Licenses granted, 1895-96.	Number of Certificates issued, 1896-97.
*Steuben	131	158	Washington	173	216
Suffolk	243	324	Wayne	128	132
Tioga	95	95	*Westchester	602	675
*Tompkins	34	44	Wyoming	92	89
*Ulster	310	297	Yates	41	48
Warren	152	146			

In thirty-two out of the fifty-five counties considered, there has been an increase of certificates over licenses; in eighteen a decrease; and in four no change. For all the counties we find 243 inhabitants to each license and 238 to each certificate (census of 1892), — a loss of five inhabitants under the present law. Bringing the totals into comparison, the following exhibit is obtained: —

	Number of Licenses, 1895-96.	Number of Certificates, 1896-97.	Inhabitants to each License.	Inhabitants to each Certificate.
In counties outside cities .	10,320	10,547	240	235
In cities	22,937	19,481	175	206
For the whole State . .	33,257	30,028	195	216

With an average gain of twenty-two inhabitants in cities for each place where liquor is sold, and a loss of five inhabitants for each such place outside the cities, it does not seem demonstrable that the Liquor Tax Law has become a potent temperance factor. Most striking is the discrimination in favor of the rural liquor traffic. It may be objected that our comparisons are not quite just, because the unlicensed selling, which certainly flourished to a greater extent under the excise boards than now, is not taken into account. But that would be dealing with unknown quantities. Nor would it make any appreciable difference if allowance were made for the clubs that now pay a tax (the bona fide ones are few), or for those certificates surrendered which really signify places that have gone out of business.

LOCAL OPTION.

Only sixty-two towns voted on the four questions submitted in the spring of 1896; the remaining 880 voted in the spring of 1897 with the following results: —

Against all sales	263
For sales under all four propositions	359
For sales by pharmacists and hotels only	117
For sales by hotels only	105
For sales by pharmacists only	34

Sixty-four were variously divided upon the different questions; total towns, 942.

There are now twenty fewer "absolutely no-license" towns than when the Liquor Tax Law took effect. As an offset to this loss, it is pointed out that there are "very many less saloons and groceries where liquors are dispensed." But, unfortunately, "hotels" have become far more pernicious than the ordinary saloon, both in small and large places. On the other hand, it is probably true that local prohibition is better enforced than formerly. The experiment with local option is too new to warrant any general conclusions. But the criticism that the law is clumsily drawn, if not contrived to make complete prohibition difficult of attainment, is not unreasonable. In sixty-four towns, the results of the first vote were evidently so confusing as to make a classification impossible. The invitation to discrimination against the saloons in favor of the hotel (see law) may prove a kind of balm to the conscience of some people, but the resulting semblance of local prohibition is worse than none.

ENFORCEMENT, CRIMINAL PROSECUTIONS, AND CIVIL ACTIONS.

It is but faint praise to indorse the official statement, "The Liquor Tax Law has been better observed and better

enforced than any former excise law of the State." (Second Ann. Rep. of the State Commissioner of Excise, p. 10.) Former laws were not enforced at all, except for brief periods in a few localities. Nor could the fact that ampler legal means for compelling obedience to the law are now available, both to officials and citizens, afford much consolation were it not that signs of a healthier public sentiment are visible. Through honest and unremitting efforts the Excise Department has made itself respected. To be sure, it cannot do much more than collect taxes and prod officials. But this has a salutary effect. Dealers have now a realizing sense, formerly lacking in more than one locality, that the tax must be paid to the last farthing; and much of the illegal traffic has been stopped. Local officials are no longer so prone to repudiate all responsibility for enforcement. Excise cases obtain wider publicity than before, and citizens have an opportunity of learning what magistrates and attorneys are about. In short, there is a livelier public consciousness of the fact that liquor-selling is regulated by law; and that is a decided gain. Although enforcement is still, on the whole, feeble and in some places farcical, such bold-faced violations as were the order of the day in some localities not many months ago are not likely to recur. But it should not be forgotten that the saloon-hotel keepers enjoy a measure of freedom from interference whereby the problem of enforcing the Sunday laws has been much simplified.

The ugliest feature of the present situation is the rarity of convictions for violations. So long as public prosecutors and juries treat excise offenses with marked leniency, the police cannot be counted on to keep up the rather purposeless work of arresting offenders.

Data published by the Excise Department furnish the measure of the present enforcement of the law, and show also the extent to which the punitive sections become operative. All indictments and convictions for violations,

as well as the preliminary examination by magistrates of persons charged with such violations, are reported to this department. The statement below is practically complete for the whole State as to indictments and convictions, but not as to persons held for grand juries. The law compelling magistrates to make reports is of more recent date, and is said not to have been fully complied with: —

Indictments found September 30, 1896, to October 1, 1897	1,006
Indictments found prior to October 1, 1896	662
Verified complaints submitted to district attorneys for prosecution	377
Indictments dismissed March 23, 1896, to October 1, 1897	351
Convictions	119
Fines imposed	$16,089.32
Fines collected and paid	6,834.32
Indictments pending October 1, 1897	1,198
Persons held to await the action of grand juries	741

Taking only the total number of indictments (1,668) found, and supposing prosecution to have been brought on each, we find that convictions resulted in but 7.13 per cent. of the cases. As a matter of fact, it is not known how many trials took place on indictments and the verified complaints submitted. Curiously enough, the law requires reports to be made of indictments and convictions, but not of the cases hung up in the offices of district attorneys. Probably in hundreds of instances no effort is made to bring about a trial. The fines imposed averaged but $135.20 for each of the 119 convictions. In thirty-four out of the fifty-seven counties not a cent has been collected in fines. The largest amount came from New York city, namely, $1,382. It appears that not a single fine has been collected for illegal traffic; for that is always to be twice the amount of the tax. So far, the value of the authority delegated to the excise commissioner of beginning a civil

action to recover a penalty of $50 for each violation of the law, to be exercised in cases where local authorities cannot or will not do their duty, has not been demonstrated.

Only the more important civil actions and proceedings during the year ending September 30, 1897, need be noted. Eleven proceedings were instituted by the Department of Excise to restrain illegal traffic, resulting in injunctions being issued in eight cases. By the department twenty-two, and by citizens fifty-three, actions were instituted to revoke and cancel liquor tax certificates; thirty-six were revoked, and twenty-six cases dismissed or discontinued; thirteen cases are still pending. Five actions were brought to enforce the penalty on bonds.

The number of certificates revoked is not so surprisingly small when we remember how few convictions are obtained. Conviction must precede revocation.

ARRESTS FOR DRUNKENNESS.

Since it has been officially asserted (Second Annual Report of the State Commissioner of Excise, p. 5) that arrests for drunkenness have decreased under the present law, the facts upon which this statement is made must be briefly examined. Under an act of May 23, 1895, justices of peace are required to keep "a Justices' Criminal Docket," giving a complete record, among other things, of arrests for drunkenness. Some time elapsed before the act became generally operative. From these dockets agents of the Department of Excise have tabulated the number of arrests on the charges "drunk," "drunk and disorderly," and "public intoxication" under the one head of "intoxication." The department observes: "In some instances, the docket records show a tendency on the part of officials to conceal real causes of arrest. Some justices never commit. . . . In some localities drunkenness is hardly considered a crime of which official cognizance should be taken; in

others, apparently little heed has been given to the observance of a statute requiring a criminal docket to be kept." Mention is made of "these obstacles, . . . together with the destruction of records by fire, or their removal by outgoing officials."

Furthermore, comparative data for any whole year under the former liquor law are unobtainable, since the act requiring records to be kept did not become operative until the latter half of 1895. The available statistics under the present law do not extend beyond September 30, 1897. One may, therefore, justly say of the statistics of arrest furnished by the Department of Excise not only that "at best this information is somewhat incomplete and unsatisfactory," but that it is absolutely worthless as a basis for any safe conclusions. For the whole State a decrease of 3,798 arrests in 1896 as compared with the preceeding year is shown by the dockets. But this total hardly represents more than the fluctuations observed in a single city from one year to another. Thus in Buffalo the arrests for drunkenness and disorderly conduct show an increase in 1897 of 3,474 over 1896; yet it would be unwarrantable to argue from this isolated fact that under the Liquor Tax Law there is less sobriety than before.

It is quite possible, but not probable, that drunkenness has perceptibly diminished within two years; no one can tell. We know nothing about the consumption of liquor, and of production only that the output of the breweries in the State has decreased; but this is also true of States in which there has been no change in legislation, for instance in Illinois and Ohio.

FINANCIAL RESULTS.

The unqualified success of the Liquor Tax Law as a revenue-producer, and the economy of state control of the traffic, may be gleaned from the following comparative statement: —

Total receipts under the old law for twelve months ending April 30, 1896		$3,172,376.58
Expenses of collection		252,782.77
Net revenue		$2,919,593.81

Ratio of expenses of collection, 8.65 per cent.

Total receipts under the Liquor Tax Law from October 1, 1896, to September 30, 1897		$12,267,012.59
Rebates paid during above period	$517,971.09	
County treasurer's fees	61,488.31	
Expenses of Excise Department	263,647.43	
		840,106.83
Net revenue		$11,423,205.76

Amount paid into state treasury (one third)	$3,914,906.76
" " to cities	6,938,180.13
" " to towns	834,466.30

Bitter resentment against the State's sharing the excise revenue is shown by many who regard it as a scheme to "bleed" the cities for the benefit of the rural districts where a low tax is paid, or, in some places, none. Such was doubtless the intention of the framers of the law. But under the operation of the Equalization Table of 1897, prepared by the State Board of Assessors, each locality is a beneficiary in the tax moneys turned into the state treasury in proportion to the amount of excise tax it pays. In other words, a locality is relieved from direct taxation to the amount raised indirectly by taxes on the liquor traffic. The excise money paid to the State in excess of its percentage of the state tax accrues to the locality. This arrangement would seem to benefit the real-estate owner and rent-payer.

To illustrate how the system works: —

In New York city for the year ending September 30, 1897, the net revenue was	$5,392,275.20
City's share (two thirds)	3,594,850.13
State's share (one third)	1,797,425.07
The city received in rebated state taxation on account of the state excise revenue	$1,842,428.30
As stated above, it paid to the state treasury .	1,797,425.07
Direct gain to the city over and above what it pays to the State	$45,003.23

The total receipts in license fees in New York city in 1895 was $1,790,530, or $1,804,320.13 less than during the last fiscal year under the present system, and the expense of collection was much larger in 1895. Of the gross excise receipts in the State, $8,920,855.91, or over two thirds, are contributed by the three counties, New York, Kings, and Erie. A uniform tax on the traffic regardless of population would, of course, have yielded very different results.

With all its palpable defects, the tax feature of the law has demonstrated beyond peradventure that the weight of tax which can be borne by the liquor trade has not yet reached its limit, and that a reduction of drink places follows very nearly in proportion as the tax rate is raised. These are lessons of positive benefit, and new in the State of New York.

Apart from considerations of the law, the question whether the system of state control provided has proved its superiority over the preceding system of local control must, on the whole, be answered in the affirmative. Remembering that the excise boards generally were not what they might have been, disinterested persons cannot mourn their abolition. Against the present lack of discretionary authority to prevent objectionable persons from engaging in an admittedly dangerous business must be held the fact that, while this authority existed, it was not commonly used in

the interests of public morality. And, aside from the difficulty in keeping the boards free from venal politics and other contaminating influences, their administration was usually inefficient and always expensive. In the latter respects the Department of Excise presents a pleasing contrast. Instead of scores of methods or no method at all, there is uniformity and systematized control. For the first time in the history of the State, it is made possible to obtain some reliable information about the various phases of the liquor traffic in all localities. This again is a positive benefit, and has doubtless resulted in quickening public interest in the liquor problem as a whole.

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